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PRINCIPLES OF POLITICS
FROM THE VIEWPOINT OF THE AMERICAN
CITIZEN

GEORGE BLUMENTHAL FOUNDATION

1908

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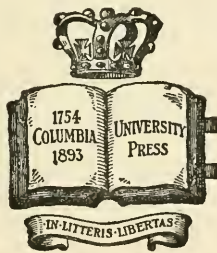
PRINCIPLES OF POLITICS

FROM THE VIEWPOINT OF THE
AMERICAN CITIZEN

BY

JEREMIAH W. JENKS, PH.D., LL.D.

PROFESSOR OF GOVERNMENT AND PUBLIC ADMINISTRATION IN
NEW YORK UNIVERSITY



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TO
MY STUDENTS OF POLITICS
WHO HAVE GREATLY ASSISTED ME
BY THEIR HELPFUL QUESTIONS
AND SUGGESTIONS

PREFACE

IT is the purpose of this volume to explain as simply as possible from the viewpoint of the thoughtful American citizen the principles by which political action is in the main guided in the United States and in other countries similarly situated. This material was prepared originally as a course of lectures to be given on the George Blumenthal Foundation at Columbia University in the fall and winter of 1907. The lectures are printed substantially as given, so far as substance and arrangement are concerned. If in any way they are to be distinguished from other writings on similar topics, it is in the effort to bring into closer touch than is usual the work of the scholar and of the practical man of affairs. Too often students in our Universities take the courses in economics and in politics without becoming fully conscious of the fact that the topics that they are studying are those which concern actual living conditions, and that if they are thoroughly understood they may prove helpful later in the business of life. Unfortunately, the men who write books on economic and political topics too frequently base their studies only on other books written by men who likewise have not had practical experience. In consequence, such studies at times lack touch with actual life. On the other hand, the men who do business and those who are active in guiding the affairs of state comparatively seldom write out in detail their methods of work and the principles by which their activities are guided. In the preparation of this work, while it has been the

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intention not to neglect the books that have been written on the subject, more material has been secured from men engaged in the practical work of politics and from a somewhat long experience in the observation of political affairs.

The topics here treated have been discussed for many years with students in the class room as well as with citizens of many types who are interested in public questions. I hope that the work may prove helpful to citizens, especially to our young citizens who are ambitious to play a part in politics, in making clear and impartial their own outlook on life, and in enabling them to fix thoroughly and wisely the principles by which their own political activity may be guided.

JEREMIAH W. JENKS.

CORNELL UNIVERSITY,
ITHACA, N.Y., 1909.

CONTENTS

CHAPTER I

NATURE OF THE STATE AND OF GOVERNMENT

	PAGE
Study of the principles of government	1
Political character of the average man	2
Necessity of an ideal in political and social life	3
The improvement of the highest and best powers of citizens, — the general ideal	5
Individual and personal ideal	5
Principles of government as an aid to civic work	5
Definition of politics	6
The state a social organization	7
Economic society	8
The state supreme	8
The importance of a citizen's relation to the state	9
The unlimited aid and protection of the state	10
Allegiance of citizens	11
Government	11
An organ of the state	12
Action of state only through government	12
The importance of personal characteristics of officials	13
The relation of the government to individual citizens	13
The scope of activities of the state, — socialistic, individualistic	14
Its dependence upon the will of the state	15
The determination of the will of the state, largely through eco- nomic and political conditions	16
Premises to be considered in political reasoning	17
The variability of human nature	18
The economic conditions of the country	19
The difference in races	19
The difference in institutions	19
Methods of study	20

	PAGE
Introspection and comparison with other individuals	20
Comparison of states and governments	20
Experimentation	21
Importance of the relation between politics and ethics	21

CHAPTER II

POLITICAL MOTIVES

The importance of investigating motives	23
Complexity of motives	24
Not only <i>de jure</i> but also <i>de facto</i> rulers to be considered	24
All rulers affected by popular sentiment	25
Conscientiousness of action — excuses	26
Desire to hold and extend power	28
Desire to serve public	29
The "boss" <i>vs.</i> the leader	29
Like principles found in business	30
Complexity of motives of individual citizens	31
Consciousness of kind	31
Prejudice springing from racial differences	32
Inertia	33
Relation of inertia to conservatism	35
Self-interest	36
Devotion to leader	37
Devotion to party	38
Patriotism	39
Diversity of interests and views	39

CHAPTER III

THE SUFFRAGE

"Natural right"	40
Influence of inertia on suffrage	41
Power of voter	42
Extension of suffrage	43
Popular government <i>vs.</i> free government	43
Suffrage not a right but a trust	43
Work of voter	44

	PAGE
Passing upon laws	45
Selection of representatives	45
Qualifications of voters	47
Age	47
Residence	48
Education	48
Knowledge of good government	50
Patriotism and interest	50
Good judgment	50
Importance of independent thinking	51
Woman suffrage	53
Personal qualifications of women in the United States—favorable and adverse to suffrage	53
Independence	55
Example of Western States	56
Lack of interest	57
Influence of public sentiment	57
Negro suffrage and that of special races	58
Training of public opinion	60

CHAPTER IV

POLITICAL PARTIES

The coördinating force in government	61
The origin of parties, differences in human nature	61
Organization	62
Duty of getting offices	63
Party methods	64
Doubtful votes	65
Party exists for good of state	65
Principles determining party membership	66
Influence of temperament, environment, etc.	66
Business interests	67
Public interest	68
Habit and inertia	68
Allegiance to party	69
Influence of independent voters	69
Influence of great leaders	70
The changing nature of a party	70

	PAGE
The character of the "ins and outs"	70
The functions of third parties	71
Special issues	72
Necessity of separating carefully local and national issues	73
Claims of party upon some offices, <i>e.g.</i> The Cabinet	74
Party leadership	74
Advantages (and <i>vice versa</i>) of wealthy men and of poor men in office	75
Devotion to party for sake of country	75

CHAPTER V

REPRESENTATION

Modern significance of representation	76
Are representatives mere delegates or independent representa- tive citizens?	77
Example of Edmund Burke	77
Present practice not the ideal	78
Care of local interests by representatives	79
Work for constituents	79
Gerrymander	80
Machine rules for party voting	81
Class representation of some countries	81
Large representation of lawyers	83
Labor representatives	83
Proportional system of representation	84
Advantages	85
Disadvantages	87
Suitability of system to country	91

CHAPTER VI

LEGISLATION

Origin of law ; primitive custom, taboo, vendetta, etc.	92
Importance of popular approval of law	93
Wisdom of law-makers following peoples' wishes	95
Example of prohibition laws	95
Wisdom of conservatism in legislation	96
Example of child labor	96

	PAGE
Compromise in legislation	97
Gambling	98
Free trade	98
Attack on vice by legislation	99
Canteen at army posts	100
Need of experts in legislation	101
Scope of legislation, national, state, or local	102
Details left to voluntary associations	102
Necessity of public opinion supporting legislation, local option	103
Over-legislation	103
Danger of checking individual initiative	104
The referendum and initiative	104
Fundamental principles of legislation	109

CHAPTER VII

ADMINISTRATION

Direct and positive influence of executive	110
Reflected influence on those near him in power	112
Desirability of this prestige	113
Power of legislature over revenue	113
Power of personality of executive	114
Relation of executive to legislature	114
Enforcement of unpopular law	115
Sherman anti-trust law	116
Evil relation of legislature and executive	117
Interpretation of laws by executive	117
Dependence of subordinate on superior	118
Similarity of government administration to corporation	120
Members of cabinet — qualifications	120
The civil service	122
Appointments by executive	123
Competitive system of examination for appointments	123
Work of subordinates	124
Importance of inspection	126
Efficiency of centralization in executive department	126
Management of local business ; “ Home rule ”	126
Coöperation of executive and legislature	127
Private enterprise <i>vs.</i> public control	127

CHAPTER VIII

THE JUDICIARY

	PAGE
Chief work of courts — declaration and interpretation of law	129
Example of Sherman anti-trust act	129
Doctrine of "implied powers" of constitution	131
Dred Scott decision	132
Ambiguity of laws	132
Effect of change of conditions on interpretation of laws	133
"Interstate commerce"	133
Importance of lay advice to courts	134
Conservatism of judge-made law	135
Nature of constitutional amendment	136
Reflection of change of public opinion by court	137
Importance of power of Supreme Court to declare an act un- constitutional	138
Other powers of courts	139
Courts of conciliation in Norway	139
Administrative courts	140
Avoidance of partisanship by courts	141
Impartiality	141
Term of office	142
Qualifications of judges	142
The people and the courts	143

CHAPTER IX

CONSTITUTIONS

Comparative length of constitutions	144
Increased length of recent constitutions	145
Nature of constitutions, written and unwritten	145
Definition of constitution	146
Professor Burgess' idea of constitution	146
Method of amendment or change of constitution	147
"Constitution of liberty" or declaration of rights	147
Form of organization of departments of government	148
"Enacting clause"	149
Constitution as a clear statement of fundamental laws	150

	PAGE
Nature of English constitution	150
Promulgation and ratification of constitution	151
Constitution-making bodies	152
Amendment of constitution	154
Meanings of word "people"	154
The complete constitution	155
Political parties and their actions in relation to the constitution	155
Presence in many constitutions of statutes of minor import	156
Confusion of legislative and constitutional functions	157
Nature of matter suitable for constitution	158

CHAPTER X

INTERNATIONAL RELATIONS

Geographical situation, effect upon international relations	160
Early expansion into territory of Indians	161
Example of Russo-Japanese war	162
Later expansion of United States	163
Methods and justice of acquiring territory	164
Justification of strength	165
Monroe Doctrine	165
Relations with Cuba	166
The Philippine situation	167
Diplomatic methods of the last hundred years	169
American policy	170
Influences tending toward perpetual peace	171
Enormous cost of armies	171
Economic competition	172
Commerce	172
Influence of church	173
Growth of great states	173
Federation	173
Alliances	173
Arbitration	174
Hague Tribunal	174
Hague Conferences	174
Need of general Congress	175
A world federation	175

BIBLIOGRAPHY

The following brief list of books may prove suggestive to those who care to read somewhat in Politics. The books differ in nature and in point of view, but all are helpful. It has been thought best to add to those on political theory a few in English giving the facts regarding the forms of government in the leading modern states.

ARISTOTLE, Politics.

PLATO, The Republic, Apology.

DANTE, De Monarchia.

MACHIAVELLI, The Prince.

MONTESQUIEU, Spirit of the Laws.

LOCKE, Essays on Civil Government.

ROUSSEAU, Social Contract.

HEGEL, The Philosophy of the State and of History.

BURKE, Speech Previous to Bristol Election.

THE FEDERALIST.

BLUNTSCHLI, The Theory of the State.

BLUNTSCHLI, Politik als Wissenschaft.

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BURGESS, JOHN W., Political Science and Comparative Constitutional Law. 2 vols.

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SIDGWICK, HENRY, Elements of Politics.

LOWELL, JAMES RUSSELL, Democracy and Other Essays.

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WILSON, WOODROW, Congressional Government.

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RITCHIE, DAVID G., Natural Rights.

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JANET, PAUL, Histoire de la science politique dans ses rapports avec
la morale. 2 vols.
LOWELL, A. LAWRENCE, Government and Parties in Continental
Europe. 2 vols.
DUPRIEZ, L., Les Ministres dans les principaux pays d'Europe et
d'Amerique.
WILSON, WOODROW, The State.
BRYCE, JAMES, The American Commonwealth. 2 vols.
LOWELL, A. LAWRENCE, The Government of England. 2 vols.
MACY, JESSE, The English Constitution.
BODLEY, J. E. C., France. 2 vols.
HOWARD, BURT ESTES, The German Empire.
VINCENT, JOHN MARTIN, Government in Switzerland.

THE PRINCIPLES OF POLITICS

I

THE NATURE OF THE STATE AND OF GOVERNMENT

It is assumed that the readers of this book will be people interested in politics not merely as scientific students, but also as practical American citizens who are willing to aid in the improvement of conditions as far as they think practicable. It is not assumed that the readers are "reformers" in the professional sense sometimes given to that word. So high an authority on politics as President Roosevelt has said (and whether one agrees with him or not in his political views, it will be granted by every one that he is one of the most practical politicians and keen judges of public opinion in the United States) that next to the corrupt politician the most difficult man to deal with in the administration of public affairs, however highly educated he may be, is the sincere but unpractical radical reformer. The readers of the book, I trust, will be persons of the type of practical reformers.

We shall try to study in a reasonable way the principles of government as exemplified primarily in the action of advanced democratic governments of the present day, especially in the United States; and we shall deal with such problems as suffrage, political parties, the work of representative bodies, that of the judiciary, international relations, and similar questions.

In order that the study may be of genuine service, actual conditions must be depicted, and from the facts of social and political life the principles must be drawn.

Too frequently those people who are trying to improve political conditions assume, often unconsciously, that the great mass of the people in the community are of the same type as themselves; that they really consciously wish to put into effect the specific measures that the reformers are advocating, and that their purposes are consciously high and noble. This assumption is mistaken and dangerous. It must be recognized that the great majority of us are unenlightened so far as the principles of politics are concerned, and that we are very short-sighted in our views of life. Nearly all of us must devote practically all of our time and energy to the mere drudge work of getting a living. In consequence, we cannot spend the time and energy needed to study in any thoroughly practical or scientific way either the general principles of politics or the special political questions of the day that come before us for solution. If, therefore, this book is to be of practical benefit, it must keep as closely as possible to the facts of political life as they exist in the United States, and out of these facts as depicted must grow these political principles.

Before any positive progress can be made in political or social life, the minds of the citizens or of the statesman must be fixed upon some ideal of the state toward which it should move. It is quite possible, of course, — in fact, it is practically certain, — that the state will never attain the highest ideal. If, however, a tentative ideal is set up, not so far ahead that it can never be attained, the natural capacity for improvement which every human being

possesses will, immediately on the attainment of that ideal, set up another standard farther ahead, so that there is no serious danger of progress ceasing; and if we do not wish to check growth, we must all keep before us some ideal toward which to struggle, whether or not we really expect fully to attain it.

Near the beginning of the fifth century before Christ, when the ancient Athenians were directing their attention toward the highest ideals of political life of their time and perhaps of all time, in the funeral oration which Pericles delivered over the heroes who had fallen at Marathon, he said, "We aim at a life beautiful without extravagance; contemplative without unmanliness; wealth with us is a thing not for ostentation, but for reasonable use, and it is not the acknowledgment of poverty that we think disgraceful, but the lack of endeavor to avoid it." Pericles dared to stand before the people of ancient Athens and in public proclaim that as the ideal of Athenian statesmen. I somewhat question whether any public man of the United States would dare to stand before an American audience and proclaim a similar ideal to be the one towards which the American people are in fact striving.

Perhaps James Russell Lowell came somewhat nearer the ideal of the best minds desiring the advancement of the United States when, in his classic address on Democracy, he attempted to fix the standard by which we should estimate the true value of a nation in these words: "The real value of a country must be weighed in scales more delicate than the Balance of Trade. The garners of Sicily are empty now, but the bees from all climes still fetch honey from the tiny garden plot of Theocritus. On

a map of the world you may cover Judea with your thumb, Athens with a finger tip, and neither of them figures in the *Prices Current*; but they still lord it in the thought and action of every civilized man. Did not Dante cover with his hood all that was Italy six hundred years ago? And, if we go back a century, where was Germany outside of Weimar? Material success is good, but only as the necessary preliminary of better things. The measure of a nation's true success is the amount it has contributed to the thought, the moral energy, the intellectual happiness, the spiritual hope and consolation, of mankind. There is no other, let our candidates flatter us as they may." ¹

We may then, perhaps, take as the ideal toward which the American citizen ought to strive something like this: The purpose of our state, so far as we are concerned in improving our political conditions, is to enable each citizen to gratify to the greatest extent possible his highest desires and to develop his powers to the best advantage. Not all of our desires should be gratified, only the noblest ones. Under those circumstances the state would not exist for the benefit of one class, but for all classes, since every citizen would be enabled, as far as possible, to develop as best he can his capacities. Under these conditions, citizens would of course differ as regards the special ideal that each would endeavor to obtain, and the ideal would also change from time to time; and such differences and changes are right. A country in one stage of civilization cannot expect to work in the same direction as one in a different stage. Each must work in its own

¹ "Democracy and Other Addresses," p. 237.

way for the development of its ideal to enable each citizen to develop best his own capacities. Two civilizations as different, for instance, as those of China and of the United States or of Great Britain and Japan cannot be striving in exactly the same direction. It is not proper to speak of one of these states as having a higher or lower civilization than the other; they have different types of civilization and they must work in different directions, if the state in each case is to secure best its own advancement. The general ideal to be followed is the improvement, in the most practical way, of the highest and best powers of the citizens.

Given, however, this general, possibly somewhat remote ideal, each citizen must further ask himself what he as an individual can do, in what way he is to take the first step toward the attainment of his ideal; and that first step will invariably be an effort to understand and to take an active part in the solution of some special problem of the day. Each must do the work that lies at hand. In our country that work might be the question of the tariff or of ballot reform or of the railroads, or the solution of the liquor problem, or the race problem, — whatever question appeals to the individual as important and as one that he can himself do something to solve. If our work as citizens is to be well done, we must work toward our highest ideal by dealing with practical problems; and we can deal with them in a much more satisfactory way if we are familiar with the principles on which the state and government are based, if we understand the forces that animate the state and determine the way in which the government shall act. In this brief series of studies the intention is to discuss these principles and forces in order that we

may the more readily take up without serious mistake the political problems of the day.

Politics is the study that deals with the state and with government. We ought then first to note what are the characteristics of the state and of government. Generally speaking, the ideas of most of us as to the meaning of the word "state" or as to the nature of the state are extremely hazy. Probably when the word "state" is mentioned, most of us unconsciously think of Washington or Albany or Boston or some other capital city where we feel rather than know that important things are done by some people who are extremely influential. Some years ago the French newspapers had an account of an ignorant peasant who had come from an outlying district of Brittany into Paris and had taken his way to the Chamber of Deputies. Dressed in his quaint costume, with a covered basket on his arm, he was about to enter the building when a gendarme stopped him and asked him what he wanted. "I am come to call on the state," he said. "What do you mean by that?" said the gendarme. "Why," he replied, "I have been noticing in the newspapers lately that the state has been making provision for the education of the children of France; that the state has been trying to improve the conditions of the laboring people; that the state has been taking measures to relieve the farmers from some of their burdensome taxation; that the state has been improving our war ships in order that we might be protected against dangers from foreign countries; and noticing that the state had been doing so many good things for all of us poor people, I felt that I would like to come to see the state and express my gratitude to her, and I have brought in this basket a goose for a present."

I somewhat question whether the ideas of the great mass of the people of the United States are much wiser or more accurate, on the whole, regarding the state, although they, of course, are very different from those of this ignorant peasant. Certainly our views are very indefinite.

All of us know that the state is a social organization, a society of some kind, but there are many kinds of societies. If we wish to satisfy our religious needs, we join a church, — that is, a religious society. If we engage in business, manufacturing, or buying, or selling, we become members of economic society; students in our great universities belong to fraternities; very many of our citizens join Masonic lodges, the Grange, the Maccabees, the Elks, or some other fraternal organization, — all of them societies of different types. In the newspapers from day to day in Europe we see chronicled the doings of the titled aristocracy; in Chicago and New York the doings of our so-called leaders of society, fashionable society. Now all these different classes of societies have certain common characteristics. All of them have some kind of an organization more or less definite. They are not merely aggregations of human beings; they live under rules. The various members of these societies have some kind of relationship one to another. I have spoken of the “leaders of society.” It is very frequently said that if persons do not follow the customs or fashions laid down by these leaders, they will be excluded from society. That is the punishment of those who do not obey the leaders, — exclusion, social ostracism. Although the organization is indefinite, the rules seem to be quite clearly defined and the punishment for the infraction of the rules is severe enough.

Likewise with reference to economic society concerned

with business life, — complicated as are the interrelations of business, there are certain rules and principles which are recognized by its members. The working of its rules can readily be seen if you attempt to think out in detail the means by which almost any one of your simplest desires, say that for a cup of coffee, is gratified. In order that you may have your cup of coffee at breakfast, there have been at work hundreds of people on the coffee plantations in Brazil or Java or elsewhere. Hundreds have been engaged in building the ships that have transported the coffee from that foreign clime to this; hundreds more have been at work in different parts of the world in mines and forests getting out the iron and steel and wood of which the ships have been built; the services of thousands of sailors to man these ships have been required; railroads and banks and merchants, wholesale and retail, and builders of houses and bookkeepers and lawyers and courts and schools and colleges to train some of these people, and preachers to keep them honest, and many, many more, have all been required to work for you in order that you may have your morning coffee. Any attempt to estimate the number of people and the kinds of work that they have done in order that almost any one of our simplest wants may be gratified, will convince us that thousands of people have been working together, all apparently in connection with some definite plan of which they are, generally speaking, unconscious, in order that we may have any little article of luxury or comfort. But another gratifying thought is that when we get our little article of luxury and pay for it, we have rendered a similar service in return, the effect of which has gone back through all these different classes of society that have been working

for us; and we, through this organization, have paid each one proportionately. Such is the complexity of economic society, and at the same time such is the simplicity of its organization.

Now the state is also a society, although it differs in its main characteristics from most of these others named. In the first place, the state is supreme. It gives laws to them, it takes laws from none; it is independent, they are subordinate.

The chief work of the state is that of controlling or governing; it directs its members in many of their relations of life; it controls them in many more. The state exists in order that the citizens may more nearly realize the ideal of developing themselves to the utmost in the ways best fitted for them.

Very frequently we underestimate the importance of our relations as citizens to the state in which we live. We do not at all realize that practically everything that we have comes from our relation to the state, and that almost everything that we do in life is controlled by it. Every child, even before it is born, has its social and business status fixed, its legal rights established, its claim to a sufficient training acknowledged by the state; and preparations are made for the fulfilment of the state's obligations. For the children the state compels most people in the community to pay a certain amount to support good schools; it determines that they shall be educated and compels their parents to send them to school. It prevents ignorant or careless or grasping parents from putting their children to work during their school years under conditions where their development, physical or mental, will be retarded.

Almost every act of business life, all contracts, all transactions of either cash or credit, are made under regulations fixed by the state. Most social relations of the greatest importance, — marriage, divorce, obligations of parents to children and children to parents, the relation of employer to workman, of patron to customer, are practically all determined by the state; and when we near the close of life, it determines the conditions under which our diseases shall be treated, our bodies buried, our estates distributed. Practically everything that we have is controlled by the state and every one is dominated by it. Although the state has its similarities to other societies in that its members are in an organization which apparently works toward some definite end, its different and dominating character is clearly seen. We join other societies, we are born into the state. If we are born in one state, we cannot leave that and join another except under regulations that the states themselves have made and enforced.

But the state, besides enforcing its regulations upon its citizens and providing the laws by which we may shape our business and our lives, stands ready also to grant us aid and protection to an almost unlimited extent. After the Hungarian Revolution, in 1848, Martin Koszta, a native of Hungary who had taken part in the Revolution and had become a banished refugee, came to the United States and declared his intention of becoming an American citizen. Later, on a business trip to the Old World, he was treacherously seized at the instance of the Austrian consul in the port of Smyrna, Turkey, and conveyed to an Austrian gunboat. He claimed the right of protection from the United States, and although he was not yet fully an American citizen, nevertheless, because

he was domiciled in our country and had renounced his allegiance to his former home and declared his intention of becoming a citizen and had with him his papers, his right was recognized. An American commander, Captain Ingraham, of an American ship, training his guns upon the Austrian vessel, demanded his release under threat of battle; and had there not been a temporary compromise promptly arranged by interested neutrals, fire would have been opened within a few minutes and a naval battle would have been fought to save this political refugee whose claim for protection had been recognized.¹

America, Great Britain, Germany, every great self-respecting state, stands ready at any time, at any cost, to protect the rights of its citizens when their claim is properly made. The state will not withhold punishment from wrong-doers; it will see that justice is done. Under such circumstances, in every state every citizen whose claim for protection is practically unlimited should show to the same unlimited extent his allegiance and devotion to his state, in order that his state may not merely exist, but may carry on its great work to the best advantage.

No great complex organization like that of the state can take action directly as a whole. Its acts must be done through agents. Any society, literary or business or social, if it wishes anything done, does not act as a whole, but appoints a small committee, the members of which get together, determine what ought to be done, and carry out in the wisest way the will expressed. The great committee of the state that exists to formulate and carry out its will is the government.

¹ 135 U.S. 1, 64; Wharton's Digest, 2, secs. 175, 198; Moore, International Law Digest, 3, 820 ff.

The government which acts for the state, however it is selected, represents the state in its organized capacity as a whole. The question is sometimes asked whether the government elected by a majority of the people does not represent the majority and not also the minority. But it should always be kept in mind that the fundamental intention in any election is not to favor this or that man or even to determine a specific policy; it is rather a means in a democratic state of finding out what the majority want. When the will of the majority is known, all the people, members of the minority as well as of the majority, want that will carried out. So the President or the Governor is the President or Governor, not of one party, but of the entire people, whose fundamental principle of government is that the will of the majority is to rule. This is not a theoretical principle. It is a very practical one which means peaceful development instead of revolutionary anarchy. Democratic government has been a success only in those states where the minority has been ready to accept the will of the majority as that of the state and to join with the majority in the enforcement of law.

The state, too, it should always be borne in mind, can act as a state only through its government. A government official holds his position to carry out the will of the state; and when the majority has spoken through its laws, he, as an official, has no choice but to carry out this will. When we are disposed to criticize the acts of our government officials, we should first question ourselves as to whether we are attacking them in the right spirit. They are merely in their minor capacity the organ of the state and must do its bidding. On the other hand, it can do

nothing, from making war to buying supplies for its armies or training the children of its citizens, except through these government officials.

But, in our recognition of government officials in their representative capacity, we must be careful not to forget that they are nevertheless ordinary men with personal attributes and with the human elements of weakness and strength. The men, therefore, who compose the government for the time being give character to the state and determine the nature of its acts. For example, the personality of Andrew Jackson made the United States an entirely different kind of state from that which existed when, let us say, Buchanan or Monroe was President. And can any one imagine that Russia during the fateful years of the Russo-Japanese War and the revolution that followed it was at all the same kind of state that it would have been had the chief ruler possessed the personal characteristics of Peter the Great? Theoretically, of course, the powers of President Jackson and President Buchanan were the same; the ruling attributes of Peter the Great and Nicholas II are the same; but the individual characteristics of the men holding the offices have in great part determined the will and in consequence the history and fate of the nation or state.

The relation, too, of the government to each individual citizen is important and often overlooked. In a democratic government, each plays his part in selecting the rulers and in determining what the laws shall be; but the mere fact that the citizen is doing his part in selecting the ruler and making the law gives him no privilege at all. As against the state, each citizen is merely a subject. The state acts upon its citizens through its government, the

rulers, and the citizens have no special rights simply because they have selected their rulers. They are in the same condition as citizens of states whose rulers are hereditary, unless they can manage by a new election to secure rulers whose views correspond with theirs.

How much shall the state do in the way of directing the lives of its citizens? Who is to determine the scope of the action of the state and say whether it is to be individualistic or socialistic? A certain group of thinkers, individualists, believe that the action of the state should be restricted as much as possible; that the government should adopt a policy of "hands off," and that the individual should be allowed to work in his own way with little or no interference. Another group, the socialists, believe that the state should be very active in directing the citizens; that it should control practically all productive property, and through its government should direct the production and distribution of wealth so far as this is at all practicable. There can be no question of greater importance, and we ought not to be frightened by a word. The scope of action of the state depends upon its own will, that is, upon our will as citizens in our organized political entity. If the state, that is, if we as citizens, in our organized capacity, wish to do much for ourselves as individuals, it is surely our privilege. If we wish to do little, because we think it is a better training for us and our descendants to be compelled to rely upon ourselves as individuals, that is our privilege. We all agree that our government should, for its support and for carrying out improvements which we wish, levy taxes — 1 per cent, 2 per cent, or more — upon our property. If, however, instead of doing our own work through our hired agents, we as citizens prefer to have

our elected representatives do more work for us (*e.g.*, instead merely of furnishing us water, furnish us also light, street car service, railroad transportation even, free of charge), and if we should wish to pay for these services by taxes, our government under instructions would simply be carrying out our will, even though it should necessitate the payment of taxes of 5 per cent or 10 per cent or more. We need not fear any action in either direction so long as we are sure that it is the will of the people that controls the state and thus the government. Under those circumstances, neither action would be evil. At any rate, in the opinion of the citizens of that day, whatever action was taken would be good.

As a matter of fact what actions it shall take and the scope of its activities will be determined by many considerations dependent upon the conditions of the state itself. In a country dominated by military necessities like Germany, so situated that there is danger of its very existence in the event of an attack from either Russia or France, it must be in a position to concentrate its army at any point almost at will. In consequence, the railroads of that country have been laid out with reference to military as well as to economic needs, and they are owned and managed by the state. If, in the United States, war were to break out and our government were to need the services of a railway, it would be practically essential that we take with the railway its personnel for management, even for operation, or else it would become almost entirely ineffective. In Germany, this military necessity being fully recognized, the railroad managers are government officials absolutely under government control. Owing to the different circumstances, we are

not practically compelled toward state ownership and management of railways as Germany is.

For other reasons the post-office is practically everywhere a government monopoly. Posts were originally established to enable the government to send state despatches promptly and secretly. From the nature of the business it is essential that private communications also be afforded the utmost measure of secrecy, and this can probably better be accomplished through absolute government control. Moreover, if, as in the United States, the general spread of intelligence and the development of a system of giving prompt information on all public questions even in remote districts be adopted, it is practically necessary that there be government ownership and management. In remote country districts the postal lines never pay their expenses, but the losses here are to a large extent borne by the profits made in great cities. Were the post-office to be run on a profit-making basis under private management, a very large proportion of our rural districts would be entirely deprived of postal facilities. Under the government we are willing to sacrifice profit to the necessities of keeping our public well informed.

But in different countries, whatever the nature of the business, it is the state itself which determines whether it shall go ahead in this socialistic direction or not. It is evident to any thoughtful person that not merely the general conditions of the state from the economic or military points of view, but also the kind of industry under consideration, the care or intelligence of the citizens, as well as their unselfishness, must all be taken into account to enable the state to determine whether or not it is best for it to secure and maintain ownership and control of a given industry.

But we are sometimes asked: "Supposing the state makes a mistake in what it wishes to do, what then? Is the state sure to be right?"

Certainly not. The state is made up of all of us, and all of us may make mistakes, as we know any of us is likely to do. But, on the other hand, if any of us makes a mistake, and as a result of experience we find it out, we are likely to correct it thereafter. So the state, when it makes a mistake and finds it out, adopts a different policy. Let us not forget that the state is not a higher thing than all of us or at any rate than the best of us, and it is equally likely that the actions of all of us in the long run will be determined in the same way as the action of any of us is determined.

Again, it is asked: "Is it a desirable thing that the ignorant people of the country be allowed to suffer when a few people know better? Should not the intelligent people do what they can to prevent the ignorant people from suffering through the results of their ignorance?"

Each one of the more intelligent people has certainly the same right to exercise his influence as has the ignorant; and if a comparatively few people by virtue of their greater degree of information and knowledge can save the mass of the ignorant from their mistakes, they ought to do so. The state will do as it pleases as the result of the influence of the various classes of people, each working on the other. It is the duty of the intelligent class to prevent as far as possible the ignorant from suffering as a result of their ignorance.

Before undertaking in later chapters to discuss specific lines of the state's activity, we should consider briefly the nature of the premises needed in political reasoning

and the methods to be followed in our studies. The importance of the study is, of course, conceded.

The most fundamental factor as a premise for our reasoning is human nature in all its infinite variety and variability. Because one man in certain conditions acts in a specific way, it is by no means certain that another will under the same circumstances act the same. Simply because an individual acts in this way to-day, it is not perfectly certain that he will take the same action to-morrow. When we are dealing primarily with human beings, we cannot be quite certain what will happen next, although when we deal with individuals in great numbers, so that, as the wit has said, the person under consideration is not a man but "a statistic," we may reach some very general conclusions. But our conclusions must be very general in their nature. An astronomer can predict with almost absolute precision the movement of a world; a statesman cannot calculate accurately the rural vote of any county in the state. He may make a good estimate.

But not merely must the nature of the human individual be taken into consideration. The student of politics has also to weigh all the various factors that influence human beings in their decisions and that determine what the nature of their civilization shall be. It is impossible to have a highly developed state at the North Pole. It would be impossible to secure the economic conditions necessary for the development of such a civilization.

We know the old saying, and one with much truth in it, that a mountainous country is the cradle of liberty. In Switzerland a small group of men can hold their own against an army; and under such circumstances we may

expect to find a more liberal form of government than in the great plains, where standing armies may readily be kept and manœvered and where, in consequence, the great despotisms of history have been found. We shall find some exceptions, but, generally speaking, the climate, the topography of a country, its fauna, its flora, and the other factors that influence its economic conditions shape, to a very considerable extent, the nature of the state and of government.

Different races of men seem to have different personal characteristics. In consequence we may not expect the same type of civilization or of government in countries where races differ. Probably many generations would pass before institutions that seem to be adapted to the Anglo-Saxon race could find a home among any people of the Orient, or *vice versa*.

Moreover, social institutions — religious, educational — have their influence upon political conditions. In Russia for the past thirty or forty years perhaps the chief single influence that has enabled the Russian hierarchy to control the common people has been the Greek Church, a social institution that has reached the people and that could be used by the government in controlling them. On the other hand, in the United States, there can be no question that our free public schools and our many colleges, adapted to meet the needs of the poorer people, have had a very great effect in determining our politics. Of late years, too, we have found that the forms of our business organization, our railways, our great corporations, our concentration of wealth into the hands of a few, have had an influence in shaping our laws as well as in determining what the

methods of our politics should become. All these factors, as influences that affect the minds of the citizens, will ultimately, to a greater or less degree, determine the policy of the state.

In considering the methods of study that should be followed in handling these premises of politics, we shall find that to a very great extent we must develop a habit of introspection and then judge other people by ourselves. But if we are to assume that other people think as we do, we shall need to cultivate and qualify our judgment of them by developing in ourselves the habit of learning their view of us by putting ourselves into their places and asking ourselves the questions, What would I do? What are my methods under these circumstances? And still further, we should ask how our methods would appear to other persons. We must form the habit of looking at ourselves from the outside if we are to use ourselves as a criterion for judging the acts and methods of others. John Wesley, it is reported, as he was passing along the street one day and saw a poor drunken wretch reeling toward the ditch, exclaimed, "But for the grace of God there goes John Wesley." Now John Wesley had that power of sympathy with other people and the ability to judge them in an unprejudiced way that made him the great popular leader. He could not have organized and carried to success the great church of which he was the founder without possessing that power. We must judge human nature in that way.

We need also to make a comparative study of other states and of other governments, present and past. We need to study geographic conditions. We can scarcely expect, however, to use to any noteworthy degree the

method of experiment so common in the natural sciences. I remember that some years ago, in Chicago, a socialist friend of mine asked me if I was ready to contribute something toward the making of a socialistic experiment in the state of Washington. He said that Mr. Debs was ready to go to Washington and take an active part in organizing that state on a socialistic basis, provided that money enough could be secured and enough socialists persuaded to emigrate to Washington, so that as a socialistic colony they could control the state and show to the world the results of socialism as carried out in an actual experiment. I told him that if they could show me a serious likelihood of securing enough socialists who would work together in harmony to control the state of Washington, I would gladly contribute, because Washington was a good long way from my home in New York, and I should like nothing better than to have the socialist experiment carefully tried out at that distance, so that one could see with certainty how those plans would work in actual practice.

While, of course, we cannot make experiments with the same degree of definiteness and completeness as in the natural sciences, nevertheless, by laws that have a limited application locally or in time, by a variety of laws that are passed in different states, and by various ordinances passed in different cities under similar conditions, we do obtain some conditions remotely like an experiment in natural science, and from these experiences we may gather valuable information.

Of greater importance, perhaps, than any of the relations heretofore mentioned is that between politics and ethics. In our political studies it is important that we

keep the fields distinct. We should not let our observation of what the facts of politics are be warped by our beliefs or prejudices as to what the facts ought to be. But, on the other hand, when we turn from the activities of the student of politics to those of the statesman whose duty it is to put into practice the principles which his studies have made clear, we should never let our sense of the practical or immediately personal benefits which our knowledge of the weaknesses of human nature might lead us to secure for ourselves or our faction, blind us to the still greater advantages that are bound in the long run to come to the state as a whole if the statesman keeps clearly in mind the vision of what ought to be.

II

THE POLITICAL MOTIVES

It is a very elementary principle of pedagogics that every act is determined by some feeling or motive. If, then, we as citizens are to attempt to exert some influence upon political conditions and actions in our state, it would be well for us to study the mental mainspring, the motives for the actions of the community. As was intimated in the last chapter, on account of the complexity of the subject we may not be entirely successful in our analysis, but we should at any rate make the attempt.

It should be recognized at the outset that every person in the community has some political influence, even though very often this is unconscious. We speak of the very great influence exerted by the man called the "boss" of any state, and most of us could readily give illustrations of his dominating power. He is a very influential member of the body politic. If a wealthy manufacturer wishes to have his business improved by some change in the tariff, it is very probable that he will be active in bringing about that result. If the wife of an influential senator has a longing for a sealskin coat, that may well affect his feeling regarding our relations with Great Britain in connection with the seal fisheries. No more persuasive voice than that produced by the hunger of a working-man's babe has been enough to effect a change in labor legislation.

If we were to attempt anything like a complete study of the human motives which determine political action, we should need to investigate practically all of the motives of every individual in the community. What are the motives, for example, of the burglar whose crime has an anti-social tendency? We may not know just what those motives are, — they are often complex, — but his acts and similar acts produce political activity. If we wish a full explanation of this activity, we must inquire into the burglar's motives. What are the motives of the preacher who attempts to elevate society religiously and morally by his influence? The results of his actions are likely to be felt in political circles. The lawyer who attempts to see to it that the laws are framed by a congress of experts; the farmer who tries to have a tax levied on oleomargarine; the working-man who is eager for an eight-hour law, — all bring their influences to bear, and anything like a satisfactory explanation of political activity must lead us back to the motives of these men whose influence has shaped the laws.

It would, of course, not be practicable to attempt a complete analysis of these motives. Many men are only semiconscious as regards their political influence; most people act not from one, but from many motives, and it would be impossible to make a thorough analysis; but it is possible and desirable to select the ordinary common motives that exert possibly the greatest influence in political affairs. We shall do best, also, to speak only of people consciously active in politics, — the rulers who make, interpret, and enforce our laws, and the voting citizens who take an active part in selecting these rulers.

We should be careful, too, to keep in mind the real

rulers, not merely the nominal ones; the real forms of government, not merely those written in the constitution. In the books, Russia and Germany and Great Britain are all monarchies, but there is little likeness between the forms and activities of the governments of these separate states. England is perhaps as largely a republic as is the United States. Let us not be misled by words; let us see the real forms of government that we are studying and recognize the real rulers. There have been times when the city of New York has been governed by an oligarchy, representing only a small number of men, since the leaders of political parties have been able to arrange the conditions under which we have registered and voted in such a way as practically to control our political activity. This was oligarchic rule by men without official position. The state of New York has at times been under the sway of a boss who has directed legislation and even at times perhaps the work of the executive as rigidly or more rigidly than the Czar of Russia has controlled his state.

But when we consider the motives of rulers, the real rulers, whether those named in the laws or not, we ought not to forget that they all, no matter how despotic they may be in name, are nevertheless controlled to a considerable degree by popular sentiment. The Sultan of Turkey has limits set to despotism; assassination or threatened assassination is one means of fixing the limit. The Czar of Russia acts only within very definite bounds, whatever the legal theory. Likewise the bosses, even the most despotic ones in the worst times in any of our states, have had limits set by the public sentiment of the community beyond which they dared not go.

Generally speaking, too, however foolish or corrupt even their acts may seem, most politicians, whether rulers or citizens, act conscientiously. Much depends, of course, upon the meaning of the word "conscientious," but there is little doubt that very few acts, even those considered criminal, are committed until the doer has given to himself an excuse for his act. Many a local political manager would not hesitate to say that he has bought votes directly, or, at any rate, furnished the means to buy them. Many political leaders speak freely of political tricks that they have performed in order to secure the success of their party. I have had local leaders of political parties tell me that they always made it a point to see to it, through spies and hirelings in the opposite party, that they secured the nomination of a weak man in that party as readily as that of a strong man in their own. Such men do not hesitate to tell of such acts; but if you inquire how it is that they as honorable men can do these things, they say: "Why, these acts are done for our party. We must do them; the other party stands ready to do them; it is a greater harm to the state to have the other party win than for our party to do these things." We must not forget that in almost any line of activity people make success an excuse to themselves as well as to others for their actions.

Mr. Z. R. Brockway, for many years the distinguished superintendent of the Elmira Reformatory, the man who perhaps has a longer and more valuable experience in dealing with criminals than any other person in the country, when asked whether the criminals under his charge were sorry for their crimes, replied, "Yes, they are sorry they have been caught; I have yet to find the

first man who will not find an excuse for his action. . . . Generally they say such things as this: 'Well, society owes me a living. I can't get my living easier. This rich man didn't earn his property; he is taking it by trickery; it is right that I take part of it for myself,' — and so on.'" So, when we are speaking of political motives of either rulers or citizens, let us remember that whether their acts are honest or not, they will excuse them. They often say, "If the opposite party could be prevented from doing such acts, I would be glad myself not to do them." The question becomes an extremely absorbing one in ethics.

It is generally conceded that a general in time of battle, though he must keep his given word, is justified in misleading his enemy by any kind of trickery possible. Some distinguished writers in politics are equally ready to take the position that a statesman, for the sake of his country, is justified in misleading the rulers of foreign states in a way that no individual would be justified in misleading one of his neighbors, simply because the statesman is acting not for himself, but for the good of his state. "How much better," they say, "it is to secure this advantage from the foreign state by deception rather than by war which might result if we did not secure this advantage. War would destroy hundreds or thousands of lives and millions or billions of property. Let us take the lesser evil rather than the greater."

Whether right or wrong, the people who perform these acts generally do excuse themselves for them. The rulers of states frequently act upon the hypothesis that the moral code for rulers is and ought to be different from the moral code of individuals. And yet it is gratifying to note that this feeling is doubtless changing.

With these considerations in mind, what is the most important motive of most rulers? Is it not to hold their position and to secure and extend their power? How they will secure this end, the means they will employ, will depend to a very great extent upon their training and upon the circumstances and customs of the country in which they live. In uncivilized states the method of the ruler will be to remove his opponent by assassination. In civilized states, political opponents seldom take life; but they will treacherously destroy reputations without scruple. Whether the ruler is justified in wishing to develop and extend his power depends very largely upon the use that he will make of it. If we wish our state to be of a high type, our rulers must have a high purpose in their ruling. When rulers hold their position through the favor of the people, we might expect them to keep more prominently in mind the welfare of their people than would an hereditary ruler, especially one who believed in the divine right of kings and who would perhaps naturally become somewhat arbitrary. Moreover, those born to position, as are hereditary rulers, those whose position is fixed for life, are more likely to be swayed by a desire to gratify their lower tastes and passions than those whose term is short.

But among the hereditary rulers have also been found many who wish to keep and extend their power in order to gratify and cultivate their tastes in literature and art and morals, to begin with, and then to train their people along these lines. It may very well be that the ruler who desires to strengthen his power may have good motives animating him.

It is questionable if you would find among any elective rulers men more conscientiously devoted to the wel-

fare of their people as they see it and who will work more earnestly to secure that welfare than the present rulers of England and Germany and their immediate predecessors. So far as can be seen, they live lives of the most earnest, unselfish devotion to the good of their people. They have been trained that way. They recognize their power; they wish to extend that power; but they wield and cultivate that power that they may the better devote their energies to what they believe to be the good of their people.

On the other hand, the boss, the real ruler, who has secured his power directly by chicanery of some kind or by playing upon the weaknesses of human nature, and who is relying upon those weaknesses to keep it, is likely to be animated primarily by a selfish motive. He gets his power and he wishes to extend it in order to further his own selfish ends and those of his friends. And this perhaps is the real distinction that we can ordinarily make between a boss and a leader of the best type. The man who stands at the head of his party or at the head of his country must keep the welfare of his people in mind in his use of power if he is to be called a leader, a statesman, or a patriot.

We should not forget that as a matter of course almost every ruler in an elective government has had to seek his position, and most of them have had to work in order to hold their position. But if, on the other hand, it has been the unselfish purpose of a politician or statesman to serve his people, if it has been his previous training and his record as an unselfish citizen that has pushed him forward until it has become evident to him as well as to his people that he can do more good for the public in holding office than in remaining a private citizen, surely he is justified in seeking office. If his motive has been patriotism

from the beginning and his manifest aim in securing and extending power in office is patriotism, he is justified, even though his motive in getting that power is in some degree selfish.

These principles apply not merely to government; they are general principles that apply in business as well as in politics, and this makes one more certain that the analysis is correct. Does not the president of a university try to extend his power and secure his control? We believe that the presidents of most of the great universities are men of the type of statesmen of the better class who wish to use their power for the good of thousands who come under them, but they believe they can do better if they have more power and are not too much limited in its exercise. So with the heads of the great corporations, the presidents of railroads or great manufacturing industries, — they try to hold and strengthen their power sometimes from selfish motives, but frequently from the desire to render service to the stockholders of the corporations of which they are the head. They have had so careful a training that they believe that they can do more in this position than in any other to render a public service.

The greatest of the rulers have simply sought to render service to the public, and their success in rendering those services have pushed them into their positions. Their purposes have been above office, but they have not hesitated to take and use the office. The same principle that applies to the heads of governments applies likewise to members of legislatures, to the higher judges, to members of societies of whatever kind.

In speaking of the motives of the individual citizens, we need to recognize the fact that we often act politically

when we are not really conscious of political activity. Moreover, we should not forget that in questioning motives, few of us perform any act from any single motive; but many, many motives determine most of our acts.

Professor Giddings has mentioned as perhaps the most fundamental influence that tends to create society and states, the "consciousness of kind." We do not need to go so deeply into the analysis of beings of different kinds as does he, but we may well recognize the fact that this feeling that certain people are like us, are of our type and kind, and that certain other people are unlike us and are not of our kind, has a most profound influence on political activity. Narrow-minded people in recognizing the difference between themselves and others are likely to feel that this difference means inequality, a high class and a low class. More thoughtful people in recognizing the difference do not necessarily think of superiority or inferiority, — only of the difference. But after all we must recognize that most of us do think rather better of ourselves than we do of others. In consequence, most of us are likely to put those who are different from ourselves into a class lower than we are, although very frequently they do not belong to a lower class. It is this influence, this consciousness of kind, that determines to a very great extent our race problems, which are among the most difficult and dangerous questions that arise in politics.

We may regret, most of us do regret, the race conflicts, slight as they are, relatively speaking, as yet, that we have seen on the Pacific Coast between the Chinese and Japanese and Hindoos and the Americans; but let us not for a moment underestimate this fact, that there is a difference between the American people and the Chinese

and Japanese and Hindoos. People that are broad-minded enough to see the facts will not argue from this difference, superiority or inferiority; they will recognize simply the difference. As the more ignorant Americans argue from the differences that the Chinese or the Japanese or the Hindoos are inferior to the Americans, so in their home countries the Chinese and the Japanese and the Hindoos consider the Americans inferior. It would be easy to show, from very many evidences of the ancient and high civilization of China and Japan and India, that these differences do not in any sense prove inferiority or superiority. They are merely differences in civilization and politics. Nevertheless, we, as students of politics, must recognize it as a fact that the home people will invariably consider themselves the superiors and any differing race inferior, and we must realize that, though it is not intentional, out of this consciousness of kind and this recognition of differences race questions will arise that must be met. This is no excuse for doing an injustice; it is an explanation of the difficulties. In dealing, then, with the ignorant people, the common people, we must expect that this consciousness of difference will be taken as implying superiority and inferiority; but may we not hope, if not expect, that the more intelligent and thoughtful among the populations of either race will not so interpret the difference? I recall that poem of Kipling's regarding the East and West. It is not merely good poetry, it is good politics.

“Oh, East is East, and West is West,
And never the Twain shall meet,
Till Earth and Sky stand presently
At God's great Judgment Seat;”

He sees the difference, but as a thinker and poet continues:—

“ But there is neither East nor West,
Border, nor Breed, nor Birth,
When two strong men stand face to face
Tho’ they come from the ends of the earth !”

That is good politics. We shall always have these race differences and these race feelings until earth and sky “stand presently round God’s great Judgment Seat”; but we shall also have statesmen, thinkers, scholars, intelligent people who will recognize the fact that two strong men are equal and that people of equal intelligence and equal conscientiousness should deal fairly one with another anywhere on the face of the globe. The statesman, however, must recognize the further fact that whatever ought to be done, he must study the force of prejudice as well as the force of reason, and that he cannot ignore prejudice as a motive force in the state.

Another characteristic of human nature, perhaps even more fundamental than the consciousness of kind and the recognition of differences, is the mental characteristic that has so often been called “inertia,” mental and moral, but it might about as well be called human laziness. It is much easier for most of us to let other people do our thinking than to think for ourselves. It is so much easier for us to drift on in the circumstances in which we are now placed, with the associations now round about us, than to take positive action, that most of us make little effort to change our circumstances. Political leaders usually say that you can safely count upon nine out of ten voters staying where they are put in politics, that the doubtful voters are, say ten per cent, and that they are in part the corrupt

and ignorant, in part the conscientious thinking men. The average man in politics drifts as a boy into his political party; then, regardless of the changes in its policies, he stands by its name and organization throughout his life.

This characteristic is fundamental in human nature. It is found not merely in politics, but also in business, in religion. It is, relatively speaking, easy to find a good workman, a skilled mechanic; it is very difficult to find a man who will thoughtfully study his work and see the relations existing between the different parts of the article that he is manufacturing and the different departments of the business in which he is engaged, so that he could properly organize and direct the work as superintendent. Among the merchants nine men out of ten carry on their business exactly as they learned it as boys; the tenth man who thinks about his work and his business in an original way becomes either a merchant prince or a bankrupt.

Likewise, in religion, nine out of ten of us go to the same church which our fathers joined before us and adopt the same forms of worship. We take part in the same ordinances without ever investigating their origin or thinking out their exact significance. We feel guilty if we neglect or change the observance of certain forms of church worship, and righteous if we follow them; and we are somewhat too much disposed to criticize adversely those who may as children have been taught different forms, and who now like ourselves, persist in following the habits of childhood.

This characteristic, it is seen, is fundamental, and being so uniform in its working, it becomes a most important fact in political life. It is this characteristic that gives the boss his power. The ignorant common men can be counted upon to stay where they are put. If you can get

a young college boy or working apprentice two or three years before he has a right to vote to carry a banner and march in the procession of the Republican party, the chances are large that he will be a Republican as long as he lives. About the time that he gets to be eighty, he will be found standing up in political meetings and declaring with pride that never in his life has he voted any but the Republican ticket. He does not realize that ordinarily such a statement means that he is openly declaring himself a non-thinking man. I do not wish to be misunderstood. Party politics in our country I consider a necessity, but whenever a man believes that the issues adopted by his party or its standard of candidates is wrong or inferior to those of another party, he should abandon his own. Every voter should insist upon it that he help do his party's thinking instead of letting his party do all of his thinking, and he should not confuse prejudice with thinking. While it was too emphatic, there was much truth in Carlyle's fling at the population of England, — "Forty millions, mostly fools."

And yet there is often an advantage to the state in this mental inertia. It tends toward conservatism and stability in government. With perhaps a few wise leaders to direct and the most of the people as followers, we might perhaps progress more rapidly so far as positive action goes than if each voter were to attempt to think every issue out for himself, and yet the latter is the way for the more certain progress. In the long run, if we can train our voters to be thinkers, they will gradually perceive the necessity of harmonious action, and will learn intelligently to sink their non-essential differences and be able to combine intelligently and positively upon essentials.

Next in importance in political life to the influence of mental and moral inertia, habit, comes probably the motive of self-interest, an influence likewise always counted upon by the political leaders. They expect that the voters, generally speaking, will vote with their own financial or business interests in mind. When political speeches are planned by national committees, they are so arranged that there is one type for Pennsylvania, another for Kansas, another for Massachusetts, each adapted to suit those communities by appeals to the self-interest of the voters. A Pennsylvania voter will, generally speaking, not be influenced by the thought of helping his brother in Texas if this help involves self-sacrifice. If we see clearly what will help ourselves, we are not likely to think much of the welfare of the people two thousand miles away. But again the evil may not be so great as it seems at first blush. If each voter acts for his own benefit as he understands it, we are likely to get results which will suit fairly well the interests of the whole. Although the motive from the moral point of view seems weak, the practical results in a state, provided the people are law-abiding, may well be good.

And this motive, too, goes far beyond the mere individual voter. I remember a sentence or two from a conversation with a local political leader at a state convention where one of the candidates for governor was a prominent civil service reformer. In expressing his disapproval of this candidate, the leader said, "Here I have been doing the dirty work of my party for the last twelve years, and this man with his civil service reform views, if he secured his election, would turn me down in favor of any reformer outside of politics whom he thought somewhat better trained for the special work."

This man felt that he had a right to a reward from his party for the dirty work that he had done at the polls. In a somewhat more subtle way self-interest often leads a distinguished public man to be more active in the support of his party if it is likely to give him an office.

Another reason why this motive of immediate self-interest is so effective in very many cases is because people do not see and understand clearly the questions at issue. If a man's convictions are clear on the issues of the campaign, and he believes one party right and the other wrong, the chances are strong that his vote cannot be bought at any price; but very few of the masses understand clearly the issues, and so those who are the most ignorant or those most inclined toward immediate gain or those who are weakest become much more subject to a corrupting influence. One of the best ways to stop vote buying is to educate the people, making them see clearly the issues of the day, so they will take an intelligent interest.

Many voters, too, merely follow the dictates of a party leader because of their personal devotion toward him. The followers of such magnetic leaders as Andrew Jackson, Henry Clay, James G. Blaine, have often been influenced rather by a feeling of hero worship and confidence in their leaders' judgment than by any intelligent plan. Gladstone in England, Bismarck in Germany, Cavour in Italy, Gambetti in France, have been men who inspired this personal confidence and devotion. I remember a talk many years ago with a university student in Germany. I was asking his opinion on some question of public policy, when he replied, "Oh, I don't know; if Bismarck thinks it best it will be done. I do not need to bother about it."

Others look upon devotion to party as substantially the same thing as patriotism, and will stand by their party name regardless of the nature of the issue, not merely from ignorance and inertia, as said before, but also because of this spirit of devotion to an organization which often becomes a most powerful political motive.

Still others, perhaps even the great mass of the people, when the issue can be made very simple, and especially when it becomes a moral issue, are influenced by patriotism, devotion to their country; but unless the issue can be made simple and direct, and this is rarely the case, it will be seen that different persons' conceptions of the nature of the state and of its influence differ so widely, and must differ so widely on account of their training and habits, that there will always be a great diversity of interests and views.

To the poor woman slaving her life out attempting to earn enough to clothe her children and to get the bread to satisfy their hunger, that state will appear to be the best and that policy the wisest which she thinks will, on the whole, make it easier for poor people to live. To the rich, especially the idle rich who live upon their incomes,—fortunately for us a small, and we wish that we could hope a dwindling, class,—the best state is naturally one that will bring about security of property. Having great estates, they put the emphasis upon that. The retail business man, merchant, or manufacturer wants order in the community so that there will be stability of business. The literary man is likely to feel that the state is best which promotes education through the arts and literature, which supplies great public school systems and art galleries for the good, especially the intellectual and spiritual

good, of the people, he likewise thinking mainly of the things in which he is chiefly interested.

Most of us look thus at political conditions and political proposals mainly from the point of view of our own interests or tastes or habits, being thus narrow-minded, for no one of us ought to consider his judgment necessarily wiser than that of another who does a different thing or who has a different thought. Good judgment is likely to go with experience and knowledge, but at times seems inherent in personal character. We should try to be broad-minded enough to realize that other people's thoughts and desires and interests may be as good and wise as our own, and even if they are not so good, they may be equally sincere and unselfish. We must strive to seek that which will be for the interest of all.

Inasmuch, however, as the motives of men are so manifold, the results of ignorance so great, the influences prompting or resulting from action so complex, we are likely to misjudge others. We cannot always select the men who are acting from the best motives, because it is often unsafe to judge motive by action. The man who seeks an office because he sincerely feels that he can thus best serve the state is likely to be considered selfish; while he who hesitates to take an active part in political life because he questions his own judgment is often accused of heedlessness and also of selfishness. The highest motive is doubtless patriotism, devotion to the country's interests, which will lead us to seek the best good of all. We need to get as clear a conception as possible of the interests of all, and that means work as well as devotion.

III

THE SUFFRAGE

AT the time that Cuba was about to organize as an independent state and frame a constitution, one of the leaders of the revolutionary party came to New York City to confer with a number of the leading political thinkers and business men. It was my good fortune to be present at one of these conferences, at which there came up the question of the suffrage, and what qualifications should be demanded of the voters in the new republic. There was much discussion about the table, but finally a general consensus of opinion seemed to have been reached, and they said to this representative statesman from Cuba, practically this: Find out first, as best you can, what ends you wish to attain, then draft your suffrage laws so as to secure the kind of men as voters who will give you what you need. There was no discussion whatever of the natural right to vote, no question raised as to what was just or unjust. The only question considered was this: What do you want done for the benefit of your people? What classes of the population will do it?

It is worth while, I think, before examining in detail the often controverted question of the right to vote, to go back to one or two of the principles of politics that are fundamental, and first the question of a "natural right." Most of the best thinkers on politics of the present day, I believe, will agree that there is no such thing as a natural

right. Each one may do things, ought to do things that will be for the benefit of the community, but he has not the right to demand anything from the community. Moreover, the criterion of what is for the benefit of the community at large must be settled by the community itself, not by any individual. That is the practical solution of this question. So far as I am aware, there is no other solution in history. The citizen, then, may and must do what the community determines it is best for him to do; he must stand in the forefront of battle if so ordered. He must not do what the state forbids; he may be deprived of liberty or life if he does.

Again, we should keep in mind what has been emphasized in the preceding chapter, mental inertia, the unwillingness of people to think and to work. Some years ago President Jordan of Stanford University, in a public address, said that when he was traveling once on a railroad through one of the country districts of Indiana, the train stopped at a little village station. Looking out of the window, he noticed six men sitting on a fence basking in the sunshine, doing nothing, apparently thinking nothing. The train stopped for two or three minutes and then went on, leaving the men sitting on the fence. Two or three years later he passed that way again. As the train stopped at the same station he looked out. There sat again apparently the same six men in a row on the same fence, doing nothing, and, as before, apparently thinking nothing. "Now," he said, "that is an illustration of what is the matter in a great many cases with the American people and with all peoples. There were those wide stretches of fertile prairies lying warm under the summer sunshine, simply waiting to be tickled with the hoe to bring

forth the richest harvests; here was the demand for labor of every kind, and there sat these six men apparently stuck to their fence with the bird-lime of inertia or indolence." That is what was the trouble.

This inertia is not confined at all to the kind of work that Dr. Jordan had in mind. It is too much trouble for most of us to think understandingly; we are much more likely to take the judgment of other people without testing. That, we have seen, is a fundamental principle that runs through all political discussion. It profoundly influences the question of suffrage.

In ancient days and practically through all time up to the present, the chief classification of governments is based upon suffrage. If in any community a very large proportion of the people vote, we say that is a democracy, even though a king may be named as ruler. If but a small number vote, we call the government an aristocracy or oligarchy. If no one has the right to vote, but the government is carried on by the will of the ruler without any regular method of getting at the opinions of the people or of being checked by the opinions of the people, we call that government a tyranny or a despotism or an absolute monarchy. It is possible that there is no better general classification of governments than that.

Too often, perhaps, in speaking of popular government, we fail to make a distinction between the number of people who vote and the power that the individual voter exercises. In the election of the members of the German Reichstag, for example, there is no educational or property qualification required for voting. We might therefore conclude that the German government was more nearly a popular government than that of Great Britain, where there is

a property qualification. On the other hand, if we consider the influence that the voters can exert, we must conclude that the British form of government is more popular than that of Germany, because in England the members of the House of Commons, chosen by the voters, can exert a very much greater influence in governmental affairs than can the members of the Reichstag in Germany. In Great Britain the most important bills are introduced in the House of Commons and the will of that House determines the act of the government. In Germany the most important bills are introduced, not in the Reichstag, but in the Bundesrath, and experience has shown that the vote of the Reichstag is by no means determining. The question of the suffrage is not in its real significance confined merely to the qualifications for voting, but we may also properly consider the amount of influence which the voter can exert.

Of late years there has been a strong tendency throughout Europe and America, practically throughout the world, both to extend the right of suffrage to a greater number of people and to give to the voters more influence than they earlier possessed. When the power has once been granted, it is difficult to take it away, and leaders of political parties seldom attempt to restrict the powers of voters.

We need also to distinguish carefully between a free state and a state with a popular government or one with a widely extended suffrage. We have perhaps in too many cases used the expressions "free government" and "popular government" as synonymous and have not noted carefully the differences. In a popular government a very large proportion of the people of proper age

vote. That fact, however, does not necessarily imply that the average citizen has a greater degree of liberty to do as he pleases than he might have in a despotism. All depends upon the regulations which a government makes to direct or control the actions of individual citizens. A free state is one that, relatively speaking, interferes little with the individual in carrying out his wishes. A despotism might therefore from this point of view be really a free state, the despot choosing to interfere with the individual very little. In a popular government, inasmuch as the individual takes an active part in selecting the members of that government, we are naturally more likely to find freedom than in a despotism; but this is not necessarily the case. We may properly speak of the tyranny of the majority.

We have already seen that it is not wise in political discussion to speak of natural rights. Citizens have legal rights, but inasmuch as the state is supreme over the individual citizen and may call upon the citizen to sacrifice anything or everything, even to his life, for the good of the state, we may not properly speak of a natural right as opposed to the power of the state. The right of voting, therefore, is to be looked upon not at all as a right, probably not even as a privilege, but rather as a trust, a sacred trust, put by the fundamental law into the hands of every voter to use for the interests of the community at large, — that is, for the state.

In order that we may find a sufficient basis of reason for any restrictions which should be placed upon the right to vote, it will be best to note the character of the work which a voter has to do and then to see what kind of personal qualifications this work demands.

In some countries the work of the voter is primarily

to give his assent to certain proposals or to dissent from certain proposals laid by the officials before the body of voters. This was the custom in ancient Greece; this is to-day the rule that obtains in some of the smaller cantons in Switzerland, where they have perhaps the most popular government in the world and where the individuals have more rights in government than elsewhere. Every year in the great assemblage of all of the voters of the canton, each citizen may give his vote in the election of officers and especially in the making of laws. The executive body that has been in existence for a year, after consultation with various citizens or a group of citizens, themselves may present certain proposals to the mass of the voters. A brief discussion is held; then the vote is taken of this mass of voting citizens, who are expected to vote at once aye or nay on the proposal. This voting upon laws is the main duty of the voters in some countries. In the United States this duty is exceptional. It is usually found in the case of amendments to the constitution and sometimes, under special regulations, in the settlement of local questions regarding bonding of cities, extraordinary expenditures of money, or some special question that has been referred to the people by the state legislature or city council.

By far the most important work, however, of voters in most countries, especially in our own, is the selection of representatives to act for them. The importance of this work varies with the number of officials and their duties. In some countries, where only a few officials are elected, the others being appointed, this particular duty is much simpler than in others where a very large proportion of the officials are elective.

As a practical matter, too, the average voter under ordinary circumstances in the United States simply expresses his choice between two or more rival candidates that have been selected for him by other people, usually the party leaders. This choice is regularly made by caucuses or conventions to which the voter has the right to go in person or to send a delegate to represent him, and where his opinion regarding the various candidates may have full weight. Owing, however, to the natural mental and moral inertia of which we have spoken before, and the kind of pressure brought to bear on the average voter, the candidates are usually picked out by a few leaders, the great mass of the people being expected simply to choose between two or three candidates. The result of this system has been that many political reformers have felt it their duty to improve the conditions under which our nominations should be made. Under a real democracy, in the everyday sense of that word, some think that there will be a system of direct nominations to office under which the individual voter will have as much to say in the selection of the candidates of his party as he will afterwards have to say in their election.

In some countries, owing to the form of party organization, the voter finds his choice determined very largely by the spirit of hero worship that obtains among the masses. In modern Greece, for example, the political parties, generally speaking, take the name of their leaders; some years ago the leading parties being the Trikoupists, the Delyannists, the Karapanists, and similar parties. The mass of voters care, relatively speaking, little about the principles of the parties, although these leaders, of course, were supposed to represent certain principles. They

simply followed the suggestion of the great leader regarding the selection of candidates.

In some few states, primarily in Switzerland, the voter not merely aids in the selection of his representative or votes upon laws presented to him, but through the initiative formally proposes laws which must then be taken up by the legislature, formulated, and then submitted to the people. In our own country any influential individual will have little difficulty in getting a proposal for a law before the legislature, although formally all bills are presented only by members.

With the understanding, then, that the chief work of a voter in a country like ours is to select representatives, and a secondary work which comes from time to time is to pass upon laws, especially constitutional amendments, we may note the qualifications that should be required of every voter in order that our government may be wisely carried on.

There are, of course, certain qualifications that every voter must have as a matter of convenience. For example, some age must be fixed in the law. This is largely an arbitrary matter. In many cases boys of sixteen may well know more about what is good for the state than many men of thirty-five or sixty. But the line must be drawn somewhere, and in most countries the age that is supposed to be that of a sufficient degree of maturity for holding and administering property independently and therefore for assuming the other rights and duties of manhood or womanhood has been fixed at twenty-one years. In some countries the age has been put somewhat higher, as in Germany, twenty-five years, but twenty-one seems to be the most usual.

In order that there may be the proper identification of the voter and that abuses may less easily arise, there is usually some requirement regarding residence in the voting district, — a year, six months, three months, ten days, depending upon the circumstances and the size of the constituency. Where fraud is likely, the registration laws are usually strict, — otherwise, little care need be taken. The other qualifications often insisted upon, such as a property qualification, an educational qualification, a sex qualification, sometimes a race qualification, a clean record as regards crime, etc., are intended to select voters who will be able to perform suitably the work required of them. These various qualifications can perhaps be best tested by noting the qualifications needed to perform the kinds of work already considered. If the functions of the voter were extended so that he had more to do than in this country, and work of a higher type, his qualifications should, of course, be placed higher than those which might be best in our country to-day.

Since our voters have merely primarily to select officials, if we are to have any educational qualification at all for the suffrage, it would clearly be much less than if the work of the voter were to pass upon all bills before they were enacted into laws. If every important law, like, let us say, a reform tariff act or an amendment to our federal banking law or the reorganization of a monetary system, were to come before the people for their action, a much higher grade of intelligence and training would be required than if the voters had simply to determine whether they should have A represent them instead of B. How many people are there in our community to-day that have so thoroughly studied the tariff question or the

monetary situation that they are really competent to express any opinion upon the proposals that will be brought forward before Congress? These questions are extremely complicated. It is not to be expected that the average voter is competent to decide upon the details of such legislative matters. If he must cast his vote on such a question, he will need to go to some friend who is thoroughly posted, get his judgment, and act upon it, or practically guess at the right conclusion; or, if party organization is strict, the average voter will follow his party leaders without making any independent judgment for himself. There can, of course, be no test made of the fitness of voters to settle complicated questions. Any educational qualification that can be practically applied must be simple. Even though candidates are supposed to represent certain party policies in the main so that the voters might be expected to make up their minds regarding some broad questions of general policy, it by no means follows that they can be expected to understand thoroughly the details of such measures.

In local elections it is comparatively seldom the case that party policies, which are national in their scope, should affect the voter's opinion at all. In the case of a congressional election, where the party candidate is supposed to stand for some governmental policy, a much greater degree of knowledge would be required of the voter to select his candidate intelligently than in the case of a local election where the questions at issue are or may be within the business experience and acquaintance of practically any voter. We may assume, however, that under all circumstances the voter will need a certain modicum of knowledge and the ability readily to secure information.

In very many cases this will imply a knowledge of reading and writing, although all would recognize the fact that there are very many exceptional individuals who, without being able to read or write, are still able, and with great facility, to get information which will enable them to cast an intelligent ballot. In the older states and in larger cities, where the purely local issues are likely to be more prominent and where educational facilities are much more generally available than in many of the newer states, we may expect perhaps some kind of an educational qualification, such as the ability to read and write; whereas in some of the newer states, where educational facilities are rare, the questions less complicated, and personal knowledge of the individuals of the community much greater, such a qualification would not be needed or suitable.

Aside from the matter of knowledge, there would be general agreement that every voter should know and feel the fundamental requisites of good government, such as order in the community, the spirit of obedience to law, and, in the case of a democratic government, the desire that the people should have a considerable degree of personal liberty. These matters are of much greater consequence than a knowledge of the specific issues of the day concerning which most citizens can readily get proper information if they wish.

Every voter should, of course, have a sufficient degree of patriotism and unselfish desire to further the interests of the people as a whole, even at his own expense if need be, and a considerable degree of interest in public affairs. The interest in public affairs may perhaps be generally counted upon in democratic governments, provided the citizens understand reasonably well the questions at issue.

A large proportion of our venal vote doubtless comes through lack of interest brought about by ignorance. Wherever the issue is clearly drawn, especially along moral lines, the proportion of the total vote that is purchasable will be very greatly lessened. The only test of interest that is practicable is the habit of attending to one's civic duties. If a man fails to vote for several years with no sufficient excuse, he might be disfranchised.

A modicum of good judgment is likewise, of course, desirable; but there is perhaps no possible means of securing a test of this quality beyond that which might come from a simple educational qualification or from a degree of independence shown by the power of self-support. Paupers may properly be deprived of the right to vote on the ground that they have not good judgment or else that they lack in independence.

There are other personal qualifications which may be of even greater consequence. Emerson in one of his essays says something to this effect, — that the most precious thing in the world is an independent thinking soul, — and then he goes on to comment upon the humiliation that it is for an individual to be simply counted by the head as sheep, or to have his political action predicted geographically, as when politicians say, The voters of Kansas will vote in favor of such a measure; New York City will certainly go Democratic, while the country districts will go Republican, etc. Our political actions are, as a matter of fact, predicted geographically, because the party leaders know that the very large majority of the voters in all these states do not have independent thinking souls. This characteristic of independence in the voters is of very great importance,

provided our government is to be considered at all a government of the people.

If each voter is to have a certain degree of personal independence, a personality of his own, certainly slaves must be excluded to begin with, because they have no right of their own, no personality; slaves ought not to vote.

In England, for centuries, even in fact until late years, all wage-earners were excluded from voting on exactly that ground. The people in England said, Who handles my purse owns me, and inasmuch as the wage-earners seemed to be dependent upon their employers, they were excluded from voting. Within a few decades in most countries, especially in those countries where the secret ballot is found, the government has felt that it can protect the wage-earners against oppression, and the wage-earners themselves, through their organizations and through their greater degree of intelligence, have come to feel that they need not be dependent upon their employers, but may think and vote as they will. Even in our own country, as we know, there are many charges that the employer coerces his workingmen. When such cases are directly investigated, it is usually found that although the employers may express their opinions regarding the effect of an election and may even express an opinion that the election of a candidate might result so disastrously that the workshops would need to be closed, this is done without any threat, direct or implied. Employers usually under our laws, although there are exceptions, do not take the means necessary to enable them to exercise coercion, although they may wish to exercise some influence.

In certain countries government officials are excluded

from voting on the ground that they have not a sufficient degree of independence. It is well known that at the time of one important election in Germany, when Prince Bismarck was anxious to secure as large a representation as possible for the government candidates, a circular letter was issued to the effect that in the opinion of the Chancellor one of the duties of government officials was to stand by the government in elections. This was practically an order from the Chancellor, Prince Bismarck, to all government officials to vote for the candidates favored by the government. Any such action would not be tolerated here. Any high government official who attempted to exercise such an influence would, under our later Presidents, be himself dropped from his position. Until late years, however, there was much pressure brought to bear upon some of our government officials by those higher in power, and if this pressure could not have been removed so that the under official might keep his independent personality, it would have been better to deprive our officials of the right to vote.

The question of woman suffrage is perhaps the one in this connection most debated in our country to-day, and this may properly be tested in the consideration of these personal qualities. Few people would deny that as regards their knowledge or intelligence the women in the United States are fully the equal of the men. Their knowledge may not lie primarily along political lines, because their interest has been elsewhere; but certainly, if one may judge from the experiences of coeducational institutions and of many, if not most, social organizations, where committees of both sexes work together, the degree of intelligence as well as of specialized knowledge does not show

sufficient inferiority of either sex to warrant any distinction being made on this ground. The same statement may be made regarding the qualities of moral character, of unselfish altruism, of devotion to the public weal.

The argument upon which the anti-suffragists have most generally relied, so far as personal qualifications are concerned, is that women lack independence or good judgment. Women, they assert, are swayed by feeling rather than by judgment; they have not an independent personality sufficient to justify granting them the suffrage. The question should be fairly considered. In many countries, especially in the early stages of society, the family stands as a unit, the patriarch directing its affairs. Much might be said in favor of the policy of giving to every family one vote, making the family and not the individual the unit. Under those circumstances it would make practically no difference what member of the family cast the vote. It would be the leader in the family who would determine its nature, whether it were cast by the father or the mother. Even at the present time there are doubtless many cases where the women chiefly determine how the one vote which the family possesses shall be cast. The women vote thus by proxy through their husbands. In many countries in Europe and under certain circumstances in certain states in the Union, women have the right to vote if they are independent property holders; and if the family is made the political unit, it would seem that independent single personalities, whether men or women, should be given the same right. In Austria, under certain conditions, in some places in Germany, and in some other countries in Europe, women have a right to vote; but since it is not thought best for women

to appear at the polls, they are compelled to vote by proxy.

If we come back now to the fundamental question asked before, we must ask for our country and our day and generation, Has a woman a personality so independent that she will make up her own mind? Let us go back to some of our earlier fundamental principles. Most of us have very little independent personality. We are too much inclined to drift. There can be no question at all that a very large proportion of the women in any community in the United States have much more independent personalities than thousands and hundreds of thousands of men who do vote. The question then would be, Is the proportion of women who have this independent personality so much less than the proportion of men with independence of judgment and action that it warrants us in excluding the women as a class?

That is the principle by which to decide. Considering our civilization of to-day and our ordinary customs, a man is expected probably to make up his mind independently on these questions of the day rather more often than are women; but, on the other hand, every observing man would doubtless say that the proportion of women who on most matters think for themselves independently, without any reference to their husbands or fathers or brothers or any other man, is large enough so that if that were the only vital matter, we should not be justified in excluding them from voting.

From the principles that have already been laid down it will be seen that in all probability the suffrage should not be the same in all countries or in all states, because the demands that will be brought to bear upon the voters

will differ, and the voters themselves will differ in type. With the fundamental essentials of good government, orderly government, peaceful government, civic progress, in mind, and with the thought that the voter should have an abiding interest in public affairs, we may take up the question again. So far as I have been able to gather, experience shows that woman suffrage in most of our western states has been a success. So far as my information goes, and I have taken some pains to get accurate information on this subject in different states at different times, the voting of women has been conducted in an orderly way. They have generally shown an equal degree of intelligence and altruism and they have exercised independent judgment. For example, in the state of Colorado, some years since, a man and his wife were found opposing candidates for members of the legislature, and the wife won. Both these surely had independent personalities and each was willing to protect his rights. So far as I have ever heard, peace remained in that family after election as before.

Moreover, in those states, so far as can be learned, women have not been pushing themselves forward as candidates for office to any noteworthy extent. There has been no marked change in the social order and in social conditions such as many people expected. If we may judge from the fact that the women and the men from childhood have been brought up under the influence of the same social traditions, we may expect, from the general principle of mental inertia already emphasized, that they will think much alike on nearly all public questions. If we grant the women the right to vote, provided that they exercise this right to any noteworthy degree,

we should expect that on most questions of the day, while more votes would be cast, the division of votes would be in much the same proportion as now.

But will women show much interest in public questions and actually cast their votes? That, of course, will depend upon the social conditions of the states in question. In most of our western states where the right to vote has been granted, as Colorado and Utah, women of all classes have voted in sufficient numbers probably to justify the law. In the older states, such as Massachusetts, New York, Pennsylvania, apparently only a minority, and in many instances only a small minority of the women wish the right to vote. Under those circumstances, the probabilities are that they would not have the interest in public questions that would be desirable. Under those conditions, probably more harm than good would be done by granting them the suffrage. The suffragists should first change public sentiment, then secure the right, because in this matter, as in others, laws that are not lived up to are likely to be detrimental; and in the making of laws, as well as in their enforcement, a great deal depends and should depend upon public sentiment.

To sum up this question, then, as regards woman suffrage,—and we shall see that the same principles will apply to negro suffrage and to other special questions of that kind,—we may say that the suffrage in the first place is not to be looked upon as a right. The question must be settled for each community on the ground of the good of that community. In many communities women ought not to have the right to vote, because they have been kept down so long that they have not the requisite degree of intelligent knowledge and independence. In the United

States their intelligence and range of information is, generally speaking, probably equal to that of the men. In such communities they should not be excluded on the ground of lack of knowledge or lack of altruism or lack of honesty or lack of personal independence. If they are excluded at all, it should be on the ground that they, as yet, do not wish the right, and not wishing it, they would probably neglect their duties. In consequence, too, so great social commotion might come from the change that it would be unwise to grant it until the public sentiment has been changed.

But it may well be asked why not exclude those who do not show the proper amount of interest and admit to the right of suffrage those who possess all the qualifications named? The question is fair, and presumably that would be the best solution of the question, unless, owing to social conditions, the passage of such a law would bring so much pressure socially and politically to bear upon other women who did not wish the right to vote that their independence and comfort would be sacrificed to so great a degree that more harm would be done them and the state than good would be done their voting sisters and the state through the benefit coming from their vote. The welfare of the whole is to be considered.

The question of negro suffrage or of suffrage of special races under certain circumstances needs to be answered in much the same way. Where the social conditions are such that the peace of the community and orderly government will not be sacrificed by admitting individuals under certain regulations, the best way of settling a question such as that of negro suffrage is to establish educational qualifications, property qualifications, qualifications of

character, of independence of judgment in whatever way these may locally be best applied so as to secure the right kind of a vote, and then let the voters be selected regardless of color or race, solely on the ground of personal qualifications. But in other states and under other conditions such action would be extremely unwise, because it is not a practical matter to try such a law under all conditions. In considering the effect of any law that would give other races the right to vote, it should be borne in mind that it is better often to have no law than to have one that cannot be observed. We should be honest with ourselves.

If you had been a citizen in a state where a large majority of the inhabitants were negroes of the type of those in many of the southern states shortly after the close of the Civil War, would you have thought it advisable or possible to put your schools, your civil order, your whole civilization into the hands of negroes dominated, perhaps, by a few unscrupulous demagogues? There is no question that you would have opposed by force, if necessary, any such measure, as did the people of the South. With the experience of the people there, as with the experience of other peoples in other countries, as in the Transvaal, as in South Africa, it might very well be that the granting of the right to vote to even a few who personally were well qualified would, on account of the social conditions, do far more harm than any good that could for the time being possibly be realized. Under those circumstances, public sentiment should be gradually changed until the suffrage can be placed on the basis of individual personal qualifications. In the South this is gradually coming to be the condition. As the negroes are progressing and meeting these qualifications, they are more and more as a practical matter

securing the suffrage. Later on, doubtless, the matter can be put fairly on such a basis in most such states.

So must we answer the question regarding the granting of the suffrage to other races, even of equal intelligence or equal moral character to the members of the dominating race. So long as the feeling is strong against any class or race on the ground that, if they could vote, they would make changes in the social conditions and that the civilization of the country would be materially changed against the will of the dominating classes, it would be better, rather than precipitate a social revolution, gradually to train public opinion until a majority stand ready to place the suffrage on the ground of personal qualifications of the nature of those laid down in this chapter, and then to admit regardless of sex or color or race. In the making of any fundamental law which is to affect civilization so much as will any material modification of the principles of the suffrage, we must apply general principles such as those laid down in this chapter conservatively and adopt only those measures that are adapted to the stage of civilization of the state in which we live.

IV

POLITICAL PARTIES

IN his study of politics in the United States, President Woodrow Wilson said last year in his inimitable way that our political parties are of the very greatest importance as a coördinating force in our government. The intention of our forefathers was to give us a government of checks and balances, with executive, legislative, and judicial departments, distinct and separate; but, in order that our government may be efficient, the system of checks and balances which weakens it must be overcome by some coördinating force. In our country that force is our political parties.

If we are to see in a practical way their nature and to recognize our own relationship to those parties, we must approach the question from a viewpoint somewhat different from that of the critical political philosopher. We must see how parties are made up, and we must consider what attitude we ought to take with reference to party allegiance.

Owing to the differences in our natures and training, it is natural that the individuals in a community have opinions which differ on almost any question of public policy. It is therefore normal that political parties should arise, inasmuch as a political party is merely a group of citizens who think, or are supposed to think in the same way on certain prominent political questions of the day. Political

parties arise in the same natural way that religious sects arise. Many people are inclined to question whether it is desirable to have so many sects in religion, and whether it would not be wiser to abolish sectarianism and establish one church on a few fundamental principles. But we should recognize that such an attempt in the present generation, at any rate, presumably for a long time to come, would fail. People will think differently on various phases of religious questions owing to their different temperaments, to their training as children, to the surroundings of their daily lives. If we are going to have religious progress at all, it is presumably desirable that we have these various denominations in order that each may find the religious fellowship that suits his needs.

Likewise, in the natural order, out of the differences of human nature, have arisen our political parties. Many years ago, Charles Sumner said: "Party in its truest state is the natural expression of opinion on particular public questions." This expression will assume, of course, different forms; parties are therefore a necessity in every democracy.

Moreover, if a political party is to put its opinions into effect, it must have, of course, a thoroughly well-equipped organization in order that the thoughts of the party may be crystallized, put into laws, and properly administered. We therefore cannot have anything like effective political parties unless we have party machines. A party machine means simply the organization through which the different voters of the party have their opinions crystallized into definite form and through which the means are employed to bring the voters together effectively, if not intelligently, in order to secure power for the party.

It should be clearly recognized that the first duty of every political party is, and ought to be, to get control of the offices. We find fault, properly enough, in a great many cases with the methods employed by our party organizations to secure the offices, and we talk as if there were something wrong in getting them. That is not at all the case. If we join a political party, we do so because we believe that our views with reference to the policies of the day ought to be put into effect; we think those views can be put into effect only through joining with others of like views in party organization, and then in doing what we can to put that party into power, that is, to get the offices. Our party managers, therefore, are doing nothing wrong in attempting in every honest and honorable way to secure the offices for men who will carry their policies into effect.

When I limit the efforts of the party managers to those that are honest and honorable, I mean this: However important the ordinary political tenets of a party may be, there is nothing so fundamental to the success of democratic government as a sense of order, of honor, and of justice, in the community. [However important, therefore, the issue may be that arises between the political parties, whether it be a question of economics or of political method, we may be sure that important as that question is, it can never justify corruption of the voters to put it into effect.] Corruption of the voters will do more harm than the success of the opposite party, however weak and bad its opinions may be. That is something that is often overlooked.

Though our politicians in some cases go beyond what is best for the state in their attempt to win, it is yet

worth while to bear in mind that great care is taken and very great intelligence is shown in the mere organization of our party machines. Many will recall the political campaign of 1888, in which political feeling was running very high. The states of New York and Indiana were doubtful, and it was thought extremely desirable by the party managers on both sides that those states should be carried. It was reported that a telegram was sent from the Republican headquarters to Indiana, instructing the political leaders there to divide the voters of that state into "blocks of five," and on election day to put each block into the hands of a trusty man. Somewhat later I asked one of the local Republican managers in Indiana what he thought regarding that telegram. He, the chairman of a county committee, replied: "The only trouble about that telegram was that they thought it sufficient to divide the people into blocks of five. As a matter of fact, we had divided our voters into blocks of one. Each individual voter in my county who was at all doubtful was assigned separately to a trusted man to take care of him and to see that he voted our way." This shows something of the very careful management of any important political campaign. Every voter's name is taken and each man is individually looked after. Most of the voters, it is known, will be Democrats or Republicans or Prohibitionists or Labor Men or Socialists, from tradition or some real or fancied interest; but besides these there will be found a considerable number of doubtful voters, — either the very intelligent independent voters, or those whose votes can be bought. Each of these doubtful voters in every district will be carefully thought over and will be looked after by each party manager. If there is any likelihood

of changing a vote, the means by which it can best be changed, whether by argument, by literature, by the solicitation of a friend or lawyer, or by the use of money, will be considered, and the most effective means will probably be employed. Conditions, of course, differ greatly in different localities; in some, practically every vote is safe in one party or the other, but I have known districts in which practically every voter was doubtful.

With this condition regarding the voters, we see how important definite, rigid, intelligent organization is. If we wish our political views put into effect, we ought to assist our party organization to do everything that is honorable and patriotic, in order to have our party secure the position of advantage in carrying out our political views, that is, to get the offices. But let us not forget that dishonorable practices will injure the country more than the success of the opposing party.

We ought not to feel that our country or our constitution is in danger, whatever party wins. The great mass of the people wish our constitution upheld and wish our government as a whole to be successful; and whichever party wins in any contest, if the members of that party find by testing it that they have adopted the wrong policy, they will soon change it to one which is, relatively speaking, sound. The real stability of our government in the United States is not at stake in any election. That should be kept in mind as a fundamental belief under any ordinary circumstances. There may come times of revolution.

While, then, it is the first duty of every political party to get the offices in order that its views may be put into effect, it must not be forgotten that there is danger that if the party remains in power for any length of time, it may be-

come corrupt and attempt to use its powers for selfish ends, to further the ends of the party managers, and not to seek the good of the state. A party has no right to existence at all excepting for the good of the state. In consequence, it is the duty of the individual voter to observe carefully and continuously the acts of his party leaders, to note whether they use their power for personal ends instead of for the public interest, and to keep in positions of leadership only unselfish patriots.

By what principles is party membership determined? Many political philosophers say that the age of the citizen has an influence; young men will be radical, old men conservative. This has probably a modicum of truth in it, but temperaments are not changed so much by years as is often imagined. The temperament of individuals is very noteworthy in the settlement of all life questions, whether in business or religion or pleasure or politics. It is interesting always to note the temperaments and in consequence the views of individual members of any group with which we happen to be associated, — boards of directors, church committees, university faculties, or what not. I have often amused myself by picking out the membership of the parties in the university faculty of which I am a member. When any question of university policy comes up, one can ordinarily predict that this man will vote in such a way; a more conservative man will regularly have another viewpoint; and in fact the university faculty, unconsciously to its members, is divided into parties almost as rigid as those found in the state at large. The principles involved in a careful study of such parties in churches or business organizations or boards of directors are exactly the same that are found in the study of political parties excepting

so far as the members of these special boards or committees are more nearly uniform in their general habits of society and life and thought than are the great mass of voters.

As are these men, so are members of political parties often determined in their views by their environment, their inherited opinions, and their habits of life. Owing to mental inertia, most people take their political opinions as they take their social and religious views, from those with whom they associate. Boys who carry banners in political processions of a party are likely to become men devoted to that party.

A person's business environment often affects his vote because he sees his business interests, and he is not likely to see that his business interests conflict with those of the public, even if such a conflict exists.

I have often been interested in discussing the question of the tariff with persons in different lines of business. The manufacturer, whose products are protected from strong foreign competition by a tariff, is almost certain to be a protectionist, and he will say with perfect conscientiousness: "I need protection; the policy of protection is good for business. If the tariff were removed, it would put me into bankruptcy and would ruin the business of the country." And that man will think it vital to the interests of the country as a whole that the tariff be upheld. Another man who is, let us say, the producer of raw material and who is anxious to have large importations in order that the demand for our exports may be stimulated, is much more likely to feel that the tariff ought to be lowered or removed. He sees the interests of the country as a whole through the eyes of his own special business. He is a rare

man who is broad-minded enough to see that the best interests of the public in general may differ from his own private financial interests. Still more rare is the man who, when convinced of that condition of affairs, is ready to say, It is my duty to vote for the interests of the public rather than for my own interests. Yet that is the position which the voter ought to reach, and when he considers the question of joining himself to a political party, he ought to ask, Do the tenets of that party further the interests of the country as a whole? rather than, Do the tenets of that party further my private interests?

And yet it is, of course, a fact that if each person carefully considers his own personal interest, the general consensus of opinion — theoretically the resultant of the opinions of all of the individuals — would probably give one that would further the best interests of the country at large. It is not, therefore, from the viewpoint of the public welfare a very serious fault for voters to consider their own individual interests.

But the great force, after all, in determining the membership of a party is that of habit and inertia rather than that of conscious independent judgment. Relatively few people are independent of some regular political party and determine from time to time, on consideration of the merits of the issues of the day and of the candidates, what their votes shall be. Such people, mugwumps, must always be, relatively speaking, few, because the great mass of the people have neither the training nor the temperament to think out the issues of the day at every election.

And again, the really free, intelligent, conscientious voter might find it very difficult or even wrong to take the

position of the mugwump. If one has been a member of a political organization for a number of years, so that he has become influential in the councils of that party, and in some election, in opposition to his wishes and his advice, the party managers frame a platform which he thinks unwise, what is he to do? If he withdraws from the party, he thereby weakens his influence in its councils and in the state at large. If he stays by his party in the hope that with the influence that he has now he may eventually persuade it to do what he believes best, he may quite possibly ultimately accomplish a greater good for the state. Can a person in the long run influence the policies of his country best by taking the position of a man who will coöperate with others and who, in the case of an emergency, is willing to yield a little of what he thinks wise and best for the sake of furthering finally and, on the whole, the interests of his country? Or will he perhaps accomplish more by taking the position of a hostile critic standing outside and saying, "I will punish to the best of my ability every party and every individual who does what I think wrong"? That question can probably not be answered in general terms. Each individual must answer it for himself in every special case. Generally speaking, probably, the average citizen, especially if he is a man of some considerable influence, will accomplish more if he stands by his party, even though at times he is far from satisfied, than by taking the position of a hostile critic. He can usually help his country best by helping shape his party's policy. And yet no one can fail to recognize the important influence for good that has often been exerted in a state like New York by the group of independent thinkers who are willing to go from one party to another in order to satisfy their minds

on special issues. Through this influence there can be little doubt that the type of candidates has been greatly improved, — far more than would have been the case had there not been this large group of independent voters.

Persons ought not to be bound by a mere party name as many people are. We know how easy it has often been and still is to conjure with some great name. How many voters are swayed by the name of Jefferson or the name of Lincoln, and yet these great names are generally mere party traditions: Lincoln is above all parties, as Washington is; he belongs to the whole country. But thoughtful individuals will not be bound by the name of the party or that of a great leader. No party can live for many years without changing its general line of policy. The Republican party in 1856 was the same in name that it is to-day, but since that date the general line of activity of the party has changed three or four times. The same thing is true of the Democrats. When one issue has been practically settled, a new issue arises. What is a Republican policy at one time may quite possibly become a Democratic policy at another. Now most people, the mass of the people, cling to the party name, whatever the issues of the day. One should balance those issues for himself and ask the question, Can I in the long run do more for my country by standing with my party, even though I am not in harmony on every minor issue, or by voting specifically on the issues of the day?

In most times we find political parties divided into the government party and the opposition, the ins and the outs. It is a good thing to have parties divided along that line; it tends toward a critical examination of policies. The party in power naturally wants the government strength-

ened; it is inclined to favor centralization. The opposition party normally tends toward particularism and wants the central government weakened. (In most states the party in power is inclined to be conservative as it feels responsibility.) The party out of power will promise almost anything, even along most radical lines, if it will help it to get in. Some years ago a committee of the state legislature visited a state university to inspect its work and decide upon proper appropriations. The committee included the leaders of both majority and minority parties. After its round of inspection the committee met the throng of students and citizens in the great hall of the university. The leader of the opposition having no responsibility told how greatly he had been pleased with what he had seen, stated that he thought the university should be given a very liberal appropriation since it was doing so well, and added, "And I call upon Mr. —, the leader of the House, to stand with me in this regard and do what he can for this great university." But when the leader of the majority arose to speak, he called attention to the fact that the leader of the opposition could easily make liberal promises, since he had no power and his offer was perfectly safe, continuing: "But so far as I am concerned, the responsibility rests upon me. I may say that I have been pleased; I will do what, on the whole, I think wise, but I cannot make now any definite promises, because the responsibility rests upon me." Like these leaders are the parties.

Much has been said with reference to third parties and their desirability. In the great democratic countries, — England and the United States, — two chief parties exist. If a special issue comes up, such as slavery, or the prohibition of the liquor traffic, or special labor legislation, and

neither of the great parties finds it wise or convenient to take up this issue, the question arises as to whether a third party ought to be organized. In many instances the best way to promulgate an idea is to organize a third party and to work as vigorously as possible to get into power. If the issue is really one of prime importance, as was the question of the extension of slavery into the territories before the Civil War, the third party is likely to secure such influence that either the question must be taken up by one of the existing large parties, or the third party becomes the dominant one as did the Republican party after the outbreak of the Civil War. But unless the third party within a comparatively short time becomes itself very prominent or has its policies adopted by one of the great parties, it is a reasonable assumption that its issue is not of prime importance. Under those circumstances is it worth while to devote one's time and energies and money to further discussion of the question, or would it be better, after the matter has been fully tested for a few years, to relinquish one's efforts for the time being and to devote one's energies rather to carrying through one of the issues of the day which is prominent enough so that one's influence may count? This question ought to be very seriously considered by persons of unselfish, devoted natures who try year after year to carry their ideas into effect and find that they are making practically no headway. May it not well be true that energy so expended is thrown away and that a person by following this small third party may be practically wasting his time instead of using it wisely? There may be hope fifty years hence for the special issue. This suggestion is not a condemnation of a third party; that is perhaps the best way in which to

get a new problem of the day before the people. The question is that of the true function of a third party in a country like the United States as a means to bring forward and urge a new issue until that issue has been thoughtfully tested before the country.

In cities and towns and states there are often local issues that have nothing to do with national politics. Nevertheless, in view of the influence which political parties exert and ought to exert in national questions, they will naturally extend their organization into the local districts. The greater issues, the national issues, tend to obscure the local ones, and yet these local problems are for many of us as individuals of much more importance than the national issue. It is likely to make much more difference to me individually who is the next school-teacher that has charge of my children than who is the next President. We too often forget, moreover, that the local issue is entirely different from the national issue, and that our vote on local matters ought to be cast independently of our views on federal questions, no matter what claims are made by party managers. Sometimes national issues may be of so overwhelming importance — the Civil War was such a special issue — that it is difficult to feel ourselves free to exercise the option of the individual in local matters and yet be bound upon that prime national issue. Ordinarily, probably in ninety-nine cases out of a hundred, with most voters, the local issues are far too much obscured by the national ones, but we ought to see to it that we separate in our own minds carefully the local from the national and vote accordingly.

In the selection of candidates for office also, some offices are, in their nature, political, and the policy of the country

is determined by the character of the men who hold them. To those offices the successful party has a just claim. They ought to be filled by party men because they determine party issues. It has become clear during the history of our country that the President's cabinet should be made up of men belonging to the same party, in order that the questions of public policy on which the President was elected may be kept in mind and may be carried out effectively in the interests of all of the people. A very great majority of the offices, however, are purely administrative or even clerical in character. There is no need why these should be filled by party men. There can be no such thing as Republican bookkeeping or Democratic letter-writing, and clerical offices ought not to be filled by party men for party reasons.

In Great Britain, when there is a change of the party in power, less than a hundred men change office. In this country there is no need why a very much larger number should change.

Party leadership as such gives a claim to office only so far as experience shows that the leader has won the confidence of the voters and is an able man of administrative ability. It is important that the office-holder be able and tried. It is also important that he have the confidence of the people. These qualifications can often be well tested in party organizations.

There is also in very many cases a decided advantage in public men being the possessors of a considerable amount of private wealth, so that they may be independent of their office-holding. Considering the necessities of our party organizations, a poor man who must earn his living and who, if he takes office, must be dependent upon his

official salary, can frequently not be as independent of the party leaders as he ought to be. While we may properly regret the fact that the wealth of office-seekers has sometimes had much to do with securing them position, we should likewise recognize that the man whose wealth is sufficient so that he does not need the office, can administer it, if he will, far more independently of party leaders or of outside influence, or even of temptation to dishonesty, than the man who must hold the office in order to get a living. And yet the man whose living does not depend upon his work is more likely to be neglectful of that work. It must be noted that always there is a balancing of advantages and disadvantages in such matters.

A person ought to be really devoted to the best interests of the country. The difficulty in many cases is that people forget that devotion to the party ought to be only for the sake of the country. "So long as the true theory of the public as a means to government ends for the good of the country is preserved, it will continue to be true that he serves his party best who serves his country best."

V

REPRESENTATION

THE principles of representation in government have become of special significance only in modern times. In the ancient city state, where the citizens might all come together and legislate directly upon public affairs, there was no need of representation. In a country ruled by a despot, there can be no representative system. It is, therefore, only in the modern country state in distinction from the ancient city state that the principle of representation has become of special significance. Nevertheless, in connection with this system many points should be noted to see whether, in the modern state, the principles of representation are so used as to get the best results for the welfare of the people.

Perhaps the most important question in connection with representation is this: Are the representatives as we find them in our legislatures or even in our executive chambers to be looked upon merely as delegates of their constituencies, to voice the expressed wishes of their people; or are they rather to be considered as representative citizens who, at meetings of the legislative bodies or in association with other executives, after discussion of the questions before them, shall themselves as independent men and citizens decide the issues before them in accordance with their own best judgment? Are representatives

to be looked upon as mere delegates, mouthpieces, or as representative men, speaking independently?

There can be no doubt that in the United States at the present day our representatives in state legislatures and in Congress in many cases stand chiefly as delegates. If they can in any way find out what their constituents wish, that they do. And yet there are many men who, while keeping well in mind the wishes of their constituents, will still take the broader view and within wide limits use an independent judgment.

Some years ago, when the question of the creation of Greater New York was under discussion at Albany, a number of members of the Assembly, before voting, called attention to the fact that while they themselves believed it would be better for the state of New York to defeat the bill, nevertheless they would vote for it because, after consulting their constituents, they found that those constituents wished the law. They voted contrary to their convictions to please their constituents. On the other hand, it will be recalled that Edmund Burke, on the question of conciliation with America, voted deliberately against what he believed to be the immediate wishes of his constituents. His address before the electors of Bristol is perhaps the best example we have of a representative taking boldly the position that it is his business to do the thinking for his constituents, that he has to stand for his own opinions and not the unthinking wishes of his people. I "maintained your interest," he said, "against your opinions, with a constancy that became me. A representative worthy of you ought to be a person of stability. I am to look indeed to your opinions: but to such opinions as you and I *must* have five years hence. I was not to

look to the flash of the day." I have attended many political conventions and have listened to the addresses of many candidates to constituencies in the United States. I have never heard an expression of that kind. Rather we hear much said about the wisdom of the common people, about how much more all the people know than any individual, and in consequence how it is that the representative will feel himself bound to carry out the wishes of his constituents. Now, to state the question perfectly clearly, How by adding ignorance to ignorance shall we get wisdom? Simply because a great many uninformed people agree upon some subject which they have not carefully thought out, is there much likelihood of their being right? Is it not more likely that the man will be an expert and will be right who has studied the question, who feels the responsibility upon him of deciding it after considering it in all its bearings, keeping in mind the interests not merely of his local constituency but also of all the constituencies in the country?

A representative stands not merely for the comparatively few people who have elected him. He stands for the people of the entire country which he is representing, so that he should study, not only the interests of his immediate constituents, but also the interests of the whole country. Under those circumstances, from the point of vantage which he possesses through the opportunity of consulting with representatives from all other constituencies throughout the country, he may well make up his mind more wisely than can his constituents. The idea that the man represents his local district or even that he is to recognize merely the wishes or the selfish interests of individual constituents against the welfare of the country at large,

is a doctrine, that while in practice it has very great currency, is certainly not one to be commended.

And yet a representative should by no means neglect the local interests of his constituents. Those interests in a very great majority of cases will not be found in conflict with the interests of the state. Even the interests of individual companies or persons may well be looked after in the interests of the country as a whole. It is of course the business of the representative to look after such interests of his constituents and to serve them in every way possible, so long as they do not come in conflict with the broader interests of the state.

Before, however, we consider the effect of the two systems on the character of the representative men, we may note that under present conditions and customs, if a representative desires a reëlection, he needs to be cautious regarding the degree of independence upon which he insists. Edmund Burke, in spite of the noble address that he made in favor of his position, was compelled to withdraw from his canvass and to lose his reëlection. In consequence of such possibilities our candidates often flatter their constituents to secure the election. But the people should as rapidly as possible come to know that the candidate who flatters them is not the one who can best protect their real interests.

If the people get into the habit of looking upon their representatives as their mere delegates to carry out their will, they are likely to assume that the representation is not merely in political matters, but that it extends to other lines as well. A congressman, if he is not independent, or if he flatters too much his constituents, is likely to become more or less of an errand boy to do whatever he can

for them at the capital city. Any representative is ready to laugh, though somewhat bitterly at times, at letters which he receives from his constituents asking him to go to some of the departments regarding matters that have to do with the personal welfare of the constituent rather than with the interests of the country. The time which ought to be devoted to studying the public questions of the hour is taken up largely in carrying out wishes of certain individuals for some selfish end. On the other hand, if constituents feel that they have chosen the most representative citizen of their constituency, the man who, on the whole, knows best what is good for them and for the good of the country at large, they will more rarely venture to trespass upon his time for personal reasons.

If we keep in mind primarily the delegate idea, we are likely to secure a representative of a somewhat lower type than if the representative is made to feel that his prime business is to study independently to express his own judgment, and to take the responsibility of furthering as best he may his country's welfare.

The delegate idea favors the demagogue. He may make promises or run errands to get votes. In this way he may hold his position, but he cannot do much to further the country's interests.

In the United States, under our present system of district representation, there is great opportunity of gerrymandering, that is to say, it is relatively easy for the party that has control of the state legislature when the state is redistricted, so to arrange the districts that the voting strength of the parties within the state will insure to the benefit of the party in power. The influence of the gerrymander is much greater than is often supposed. A majority

of the representatives in the 51st Congress, which enacted the McKinley tariff law, were elected by a minority of the voters, owing to the district system. In the 53d Congress, elected in 1892, had the representation been in proportion to the votes cast, the Democratic majority of 79 would have been a Democratic minority of 10. Two years later on similar lines the Republicans, with 48.4 per cent of the total vote, elected 68.8 per cent of the Congressmen. In Indiana, in 1892, owing to the gerrymander, it required 126,834 Republican votes to elect one congressman, but only 23,565 Democratic votes, that is, one Democratic vote was worth 5.4 Republican votes. In 1894, on the other hand, the Republicans elected the entire delegation of 13 members, although under a system giving the parties an equal chance, the Republicans would have been entitled to only 7. In Massachusetts, in one instance, after the Republican redistricting, it took 75,000 votes to elect one Democrat to Congress, while less than 18,000 would elect a Republican.

Aside from the abuse of the gerrymander are others coming from the party organization. As has been seen, we must have an organization, but when the machine makes rules of party voting in the caucuses such that not more than 10 per cent of the party can readily vote upon nominations, we have nothing like a fair, just representation of the voters.

In certain countries representation is not that of individuals, but rather of certain classes in the community. It may well be questioned whether, in some countries at any rate, it may not be best to have the various social or industrial classes, as such, represented instead of individuals under the assumption that there are no classes in the

country. In Prussia, especially in the election of members of the House of Representatives, a wealthy man is given a much greater voting power than a poor man, so much so that in certain districts where there are great corporations or one very wealthy man, this one man or one family or one corporation will elect a third of the members of the entire representative body. In Essen, for example, where the Krupp Iron Works are situated, the managers of that establishment alone have the power to elect one-third of the representatives, whereas at the other extreme it takes some thousands of voters to elect an equal number. In Austria, on the other hand, as well as in certain sections of Germany, in local matters there is a representation of the industrial classes, the great land owners, the chambers of commerce, the average citizens, and so on. In Norway the country districts so outrank those of the city in numbers and representative power that to each city voter is given sometimes four times the voting strength of that belonging to the country voter and still the country representatives outnumber.

And so it would be but a fair question for us to consider (I am not advocating it, merely discussing it) whether, on the whole, in a city like New York we should have the real interests of the community served better by having in our city councils a certain number of representatives of the chamber of commerce, a certain number of the trade unions, a certain number, let us say, from the merchants' associations, a certain number from the bankers, a certain number from the clergymen. May it not well be that a representation of the interests of various classes, openly and frankly acknowledged, might give us results equally as good as — possibly better than — a representation of

various individuals who, though they nominally do not represent classes in many cases, are practically controlled by those classes.

In New York we have frequently seen that the representatives of New York City in the state legislature are outvoted by the representatives of the so-called up-country districts, even though the question at interest is one that concerns primarily the city. Is this just? Should we give a larger proportionate representation to the country districts?

A representation of classes is sometimes found in our legislatures without any previous plan. Most legislatures have a very large representation of lawyers, sometimes 71 to 75 per cent. Of course lawyers are in the habit of standing for the interests of their clients and they are familiar with the business of a legislature. So we may see how natural it is, perhaps, that we should have this large representation of lawyers in practically all of our legislatures; but it is very decidedly questionable whether, on the whole, it is best for the interests of our country that they have quite so large a proportion.

Much has been said at times against the representatives of labor that we find in Congress and the state legislatures. These representatives are likely to be men less skilled than the lawyers; but the question is, after all, whether there is a person from any other class in the community who is closely enough in touch with the so-called working classes (the hand laborers mostly) that he can really see their needs and can thus represent them in the best way.

It is extremely desirable that legislators take to heart the interests of the people. It is extremely desirable, too, that they have sufficient knowledge of the conditions of the

different classes in the community in different parts of the state so that they may be sure that there is no class whose interests are not carefully looked after. Generally speaking, it may well be best that the representatives be chosen from special classes in order that the interests of those classes may not be forgotten and may be cared for so far as they are consonant with the interests of the community at large.

Much has been said in some European countries, especially in Switzerland, Belgium, and France, of the so-called proportional system of representation, it being thought by the advocates of such a system that the people as a whole would have their interests best served if each group, even though a comparatively small one, whose views were so nearly alike that there could be organized to represent them even a small party, should have some voice in the legislature. In the state of New York to-day, all the members are either Republicans or Democrats. We have a number of small parties, — the Prohibitionists, the Labor Party, the Socialists, etc., — but those parties, being made up of members scattered throughout the state, are seldom, if ever, so located that there are enough votes in any one district to secure a representative in the state legislature. Might it not perhaps be best for the interests of the state to have, instead of this district system, many districts grouped together, so that, if there were any party in the state that cast a fair quota of votes, it might secure at least one representative to speak for it? The true principle, it is asserted by the advocates of this system, is to have the representative body, as it were, a photograph of the views of the people at large, so that any group, even though it may be small, may have its interests, even its

special hobby if it wishes to have it put into a law, given a representative to speak for it. Under such a system if we suppose, for example, that ten candidates were to be elected, one party might cast, let us say, six-tenths of the votes, another two-tenths, a third two-tenths. Under those circumstances one party would elect six, another party two, the third party two, of the candidates, whereas, under the present system, generally speaking, the entire ten representatives would come from the dominant party.

This proportional system of representation has many decided advantages. It has also equally decided disadvantages. For a number of years the system has been in effect in Belgium, and the Belgians consider it successful. In certain cantons in Switzerland it seems also to have succeeded, although in one, Ticino, where it was first introduced to settle a party dispute which amounted almost to a revolution, it has at length been given up.

What are some of the advantages? It would largely do away with the abuses of the gerrymander, inasmuch as, the district system being abolished, and the representatives being chosen on a general ticket, the candidates would be elected mainly in proportion to the number of votes cast for them and the strong men in both parties might be sure of an election.

Under the district system the ablest representative of any party may be legislated out of office by a redistricting. After Mr. McKinley had made his reputation as the chairman of the Ways and Means Committee in the House of Representatives, the state was redistricted, he was put into a district where he could not be reelected, and lost in consequence his position. It makes no difference what we think of his views on the tariff; he was beyond question

among the most able, popular, and best representatives that the state of Ohio had in Congress. Under a proportional system of representation, such an evil as that could not be found. The popular representatives in the state, standing normally at the head of their ticket, would be sure of an election year after year, and thus the country would get the benefit of their wisdom and of the strength that comes from long experience in office.

A proportional system, too, would doubtless remove to a very great extent the temptations to bribery. We have legislated seriously to stop the abuses of bribery and fraud in our elections by imposing heavy penalties. How much better it might be if we could remove the temptation to commit the evil. A Swiss politician some years ago said that in the canton where he lived and where a good system of proportional representation was employed, there was little bribery. He said that there used to be much in that canton, but that the proportional system had practically stopped it entirely, since it had become certain that no one party could get a majority in the legislature. There were four or five parties. Each had a certain amount of strength — none the majority. Under those circumstances there was no particular advantage in attempting to bribe voters so as to elect one or two or half a dozen more. Had there been the district system with two great parties nearly evenly balanced, it might well have paid to expend large sums of money to secure the control of the legislature.

In a previous chapter I have spoken of the hopelessness of certain small parties that exist from year to year, but accomplish little. Under a proportional system of representation, such parties could presumably get their voices heard on the floor of the legislature. In that way the

voters of those parties might at any rate be satisfied that they were getting a hearing, and presumably much more quickly than now they would either succeed in convincing or becoming one of the great parties, or the futility of their efforts would become so clear that they would abandon their position. It is extremely desirable for the voters to feel that justice at any rate is done them.

These advantages of a proportional system are usually mentioned, but the practical politicians find also many disadvantages. The usual objection made by politicians is that the system is too complicated, — must be too complicated. Often they will say, of course, the system would be more nearly just than our present one, but we must have a system that the voters understand, and this they could not understand.

It is hardly worth while to discuss here the details of any system of proportional representation. It is perhaps sufficient to say that any one studying the question finds how little complicated some of the systems are, practically no more so than ours. If the inhabitants of a country like Switzerland or Belgium or Tasmania have had these systems in effect several years successfully, and they are found not to be too complicated for the citizens of those countries, surely we may believe that the average American voter will have intelligence enough to use them. At any rate the complications, if there are any, are mostly in the counting rather than in the voting.

Again, if each group of people large enough to cast a quota of votes so as to secure one representative could make an independent party, one might well expect in a state like New York eight or ten different parties, several of them having only a very few representatives. As has often been

said, each group of cranks would have its representative in the legislature. "It is bad enough now, when we get just a preacher to deal with," representatives have said. "What would we do if all kinds of cranks were to make their appearance?" There is really much force in this objection. It is desirable that members of the legislature be practical men as well as honest men. But, on the other hand, if any group of people is numerous enough so that its proportionate share of the votes would give it even one representative in the legislature, the probability is that that group's special fad, whatever it may be, is worth discussion. You never quite know whether a man is a crank or a genius until after his idea has been tested. Nearly all of the most noteworthy reform movements in history have been started by individuals or by a small group of men who at first have been looked upon as cranks, as extremists. In the special cases where their principle has turned out to be for the interest of the community at large, this small group of men have been merely wise men who had somewhat more foresight than their fellows. They had the opportunity to discuss their principle; that principle was gradually accepted by one after another until it became the dominating principle of the state. Doubtless in nine cases out of ten, perhaps in ninety-nine cases out of a hundred, when a small group of men starts a new idea, the chances are that it is not worth much, but you can never be quite sure that the tenth case or the twentieth case or even the hundredth case may not be one which will give to the country the most valuable political idea of the generation. It is worth while, perhaps, to allow ourselves at times to be bored by extremists, by cranks, because they will all give us ideas, and even though we cannot accept those ideas in all cases, we

may be benefited by them and sometimes they may reform us.

A more serious objection to the proportional system is that through its encouragement of small parties it might at times occur that one small party would hold the balance of power between the large ones in such a way as to give to that party an undue advantage. If three or four men might have it in their power to compel action as between the two great parties, it might at times be a useful situation; more likely it would be troublesome. It might thus also offer an opportunity for bribery; but we may note that public attention would be so centered on the few that it would be difficult for their acts to escape notice.

The politicians fear frequently that the proportional system would prevent our having a majority party, and that in consequence there would be no party that could be held responsible for legislation; that we should have endless discussion and no bills passed. There is doubtless some force in the objection, but there is also much to be said on the other side. Many of our political thinkers believe that one of our greatest evils is over-legislation, laws passed too easily, too rapidly. If every legislature were so constructed that each bill passed had to become a law as the result of a compromise between two or three parties, or perhaps of three parties out of five, we might have fewer laws; the chances are that the laws that were passed would in many cases be better considered, — perhaps, on the whole, they would be more conservative, wiser measures than laws passed under circumstances like the present, when a bill may be framed by a small group of men among the leaders of a particular party, put in by the party caucus and “jammed through.” There is no such thing

as "jamming" legislation through if you do not have a majority party and if legislation is to be the result of a compromise.

But a system of proportional representation does doubtless, within considerable limits, encourage class representation. Each special class would be likely to wish its representative, and this might foster class antagonism, a serious evil in a republic. But, on the other hand, these classes exist; they do have real antagonisms. Might it not perhaps be true that if the classes were openly recognized and their representatives had the opportunity of thrashing out their ideas in public on the floor of Congress or of the state legislatures, less bitterness would be developed and fewer evils would result than now when the small parties are compelled to rely upon the lobby and when their members smart under a sense of injustice?

The proportional system perhaps intensifies somewhat the delegate idea of representation. That, beyond question, is unfortunate if true; but there, again, if the party is small, it may be that it would select its very ablest man to represent it, and then would be willing to give that man, a recognized leader, who has helped shape the party policy, more discretion than is usually granted to the ordinary representative.

Many ideas can be brought forward in favor of or in opposition to such a system of representation. Many arguments can be made in favor of changes in other methods of representation. One thing should not be forgotten. There will not be any one system adapted to all countries. Each political institution must be adapted to the habits of thinking and the methods of action in political matters of the country under discussion. Any new proposition

would probably not be wise when first proposed. It takes time for the people to become permeated with a new idea. Any new proposal, therefore, should be thoroughly discussed; then, if possible, adapted more or less piecemeal, so that each part may be tested and suited to the needs of the country. And what is true regarding other forms of political institutions is likewise true with reference to a representative system. The presumption is that the system in existence is fairly well suited to the needs of the people. Any improvement that comes must probably come slowly.

VI

LEGISLATION

IN primitive states custom has the force of law. The chiefs of the tribes were the heads of the primitive states, acting both as members of the executive body or as chief executive and as legislators; they enforced the customs as though they were laws. Ordinarily they spoke of the customs as commands of the gods or as laws handed down from time immemorial, and in consequence as laws which must be enforced. Many instances are to be found of customs enforced with penalties more severe and rigid than those imposed for crimes in a higher stage of civilization. The custom of taboo in the islands of Oceanica in the earlier days were so rigid that if a priest declared an article taboo, no one could touch it under the death penalty. They simply made a religious observance out of that custom. Likewise the custom of the vendetta, and that of the ordeal to determine whether a person was criminal or not, had come down from time immemorial. Doubtless in the first instance it was thought that the gods would decide what was right and wrong. It was but another step to the ordeal to determine a person guilty or not guilty, whether the ordeal was to cross a stream of water without drowning, to hold hot coals in the hand, to walk on live coals, or what not. The ordeal by combat amounted also to quite the same thing. In "Ivanhoe," for example, when the knight templar fell before the

mere touch of the tottering Ivanhoe's lance, the victory was clearly looked upon as the judgment of God.

But, although we speak of customs in the earlier days having the force of laws, we ought not to imagine that the situation at the present time is materially different except in form. Most of our statutes that are really fundamental in nature and that deal primarily with the social institutions which touch our lives most closely, are simply the formulation into a definite law of an old-time custom. For example, the marriage laws of most countries are simply old-time customs definitely formulated, but the customs go far beyond the mere letter of the law and include the marriage ceremony as well. Most brides probably do not think of the ring that is put on their finger as a symbol of the subordination of the bride to her husband, but that of course is the case.

Frequently, too, these customs live when the reasons for them are entirely forgotten. With the habits of thought and life tending continually toward change, our laws thus frequently become out of place. But in most minor matters probably the essential thing is that we all agree upon the law rather than that the law itself be fixed in any determined way. For example, the custom of the road in the United States is to turn to the right when meeting another team or vehicle, and in most of our states that has been made a law. In Great Britain and elsewhere on the Continent of Europe the custom has been to turn to the left, and in consequence that is the law. Presumably that custom arose from the belief that it is better to turn to the left than to the right because the driver can guard his wheels better if he is seated on the side nearest the approaching vehicle, and for some reason, unknown to

me, the driver usually sits on the off, the right-hand side. But in some way the custom started in the United States of turning to the right, and we have kept to the right until the law has compelled it. We can see what a gain comes from our all following the same custom.

On the other hand, we sometimes find that public sentiment has crystallized against some existing custom that ought to be changed, and then in many instances a law is passed to change the custom. Probably the most striking illustration of this principle of late years in the United States is found in the movement toward ballot reform. There had been so much corruption under the old system of voting that the public became thoroughly convinced that reform must come, and the various legislators set to work to devise the means. When one reasonably good plan had been found, that was rapidly adopted by the states one after the other, until within a period of a very few years the customs of elections have been changed radically by the new laws. But it should be kept in mind that the new law was brought into existence simply because there had been a gradual change in public opinion, the will of the people determining that they would stop vote buying. Generally speaking, however, the laws are the outgrowth of custom rather than the creators of custom. We need not expect that our legislation to-day much more than that of early days can go far beyond the ordinary wishes of the people, though it may go beyond the wishes of comparatively large numbers.

On matters of slight consequence, we can hardly say that the people have any very definite opinion. Unless their attention has been attracted, they take no interest in the making of the law. In matters of fundamental importance,

however, when the people are excited and are inclined to question, the lawmakers cannot venture to go far beyond what the people have determined is wise. The reputation of being radical is not a good one for a member of the legislature. In consequence, he is ordinarily careful not to go beyond the wishes of the people as they are usually expressed.

Again, if the people become very much aroused on any question and are likely to urge some extreme action, the legislators are likely to follow, not to lead. We see that this practically must be the case. The members of legislatures are not willing to take the risk of saying to their people that it is good policy for the state as a whole to abandon its views and to follow the advice of legislators. They are much more likely to promise that they will abide by the dictates of public opinion. Moreover, this is, generally speaking, wise, aside from the question of reelection. It is not a good thing for the state to have a new law put upon the statute books that will not be well enforced. Such non-enforcement tends to inculcate disrespect for the law, an extremely evil thing, though often found in many of our states.

Take as an illustration the common and striking one of the prohibition of the liquor traffic in communities where the people, speaking generally, are opposed to it. We need not here express any opinion as to the wisdom of the policy of prohibition. There can be no doubt that, with a large majority of the population favoring such a law, it can be reasonably enforced and the liquor traffic regulated. On the other hand, in communities with opinions strongly fixed against the law, it cannot be enforced. I recall well a visit paid some years ago to the city of Topeka with the

prohibition law in force in that city. In the best hotel in the place it was well understood that any guest might obtain intoxicating liquors for consumption if he would order them sent to his room. Whether the principle be right or wrong, with the sentiment of the people opposed a law will not be well enforced.

Most legislatures are wise in that they will not make too radical changes in the law. The people ordinarily are slow in making changes, and it is wise to act slowly. It may well be best to make a careful investigation first before assuming that a custom found obnoxious to many is really bad enough to demand a change.

Many of our reformers become impatient, when a member of the legislature hesitates and says: "We can't do that now; the people won't stand for it; we must take one step at a time; in half-a-dozen years perhaps we can get the measure through." We are likely to feel that he is not sincere, but is simply seeking a way to delay legislation and hinder us and block what we want, and that he is too cowardly to tell the people what they ought to have. In some instances, this is perhaps true, but, generally speaking, when members of the legislature say, "You had better take part of that measure and wait for the rest until the people have grown up to it," they are really speaking wisely. They know what the people will stand, and if we attempt to act too rapidly, the people will see to it that the laws are not properly enforced.

The question of the restriction of child labor will serve as a good illustration of the principle. In the northern states generally, the conditions are such that the child labor laws advocated are right and wise. It is not necessary in most cases in the northern states to wait

until an investigation can be made regarding the conditions of child labor. We may properly go ahead and enact the laws that have been proposed, and be reasonably sure that they are wise and right. On the other hand, in certain sections of our country, especially in the South, a great deal of child labor has been found in some of the manufacturing establishments. In these localities the social conditions are such that the manufacturers say sincerely that they believe it better for the children to work part time in the factories rather than be allowed to run the streets; and since there is no system of compulsory education, if they were not in the factories, they would be on the streets. "As soon as we can get a system of compulsory education," they say, "we shall be ready to adopt the standard found in most northern states." With this difference of opinion in the country at large, Congress doubtless took a wise position in declaring that it would first investigate and learn the conditions within the different states before it adopted radical legislation of any kind. It is doubtless wise in legislative matters to go slowly, learn as best you can the conditions, see to it that when the conditions are made known public sentiment has so crystallized that the laws can be enforced, then pass the proper laws.

Compromise on the part of the law-making body is often the only wise policy in the interest of the public. It is important to see clearly the general line of the policy to be adopted, then to choose the time and place and means so as to go ahead as rapidly as possible in the right direction, but not so rapidly that more harm will come from our efforts than good. Many good people who are very eager to have society improve, take the position that

compromise on many questions is sin; that you must not compromise with sin; that anything but absolute prohibition of the evil is wrong. For example, if the question should come up of licensing gambling-houses, they would say, "You must not do that; that is a recognition by the state of sin, and any such recognition is in itself sinning." This is not the place to discuss in detail the question for or against the licensing of gambling-houses, but we should determine what the right principle is. What is our purpose with reference to gambling? Is it not to suppress it as rapidly as we can? Now if we should find that in any community we could presumably check gambling better by recognizing the evil, imposing a high restrictive tax, putting the gambling establishments absolutely under the control of the public authorities, and seeing that they follow up and check the evil rigidly under the law, would not that in all probability accomplish more for the good of the community than simply to forbid gambling, refuse to recognize it under the law, and with public opinion against us practically open the doors to any establishment that any one cares to set up? In our attempts to improve society we should always keep clearly in mind the end, and with our eyes wide open use means that will accomplish that end and not those that, under the circumstances, will be useless.

Another illustration. Many people believe in free trade. It would be poor policy for such people to refuse to make any compromise on the tariff rather than to accept anything short of absolute free trade. In all of our efforts to improve society we may very properly employ compromise on methods of securing our end, even though we should be unwilling to compromise on the principle. From the

point of view of the good of the state we must recognize that it is sometimes unwise to attack too directly prevailing human vices. The attack must often be made indirectly.

Most of us will remember the delightful account that Benjamin Franklin gives in his "Autobiography" of his attempt to acquire perfect virtue. You will recall that he wrote down in a systematic way a catalogue of the leading virtues. Then he divided them up and decided that one week he would practise absolutely one of the virtues, paying, relatively speaking, little attention to the others; the next he would practise absolutely a second; the week following, a third; and so on through the list. Then he would begin again and follow the same plan through. He thought that by absolutely living one virtue a week at a time and then maintaining each one as much as possible the rest of the time, and during the same period stopping the corresponding vice, he would be able in the long run to acquire almost perfect virtue. We should all agree, I suppose, that before the end of his days, Franklin had overcome a good many of his vices and had succeeded in establishing a good many virtues.

I am not entirely sure of the soundness of Franklin's principle as regards our personal vices, but I am sure that it is not wise to attack by legislation too directly all prevailing human vices at once. We should consider them separately, note the conditions, and work out for each the best remedy practicable under the prevailing conditions. The chief aim, of course, in all restrictive legislation of this nature is to help men get control of themselves. There is no reformation of any man possible short of his own self-control. By legislation we can sometimes help a man to get control of himself by removing temptations from him;

but when we remove temptations, let us see to it that we do not put worse temptations in his way, as we sometimes do.

There are many differences of opinion regarding the question of the canteen in the army, and this furnishes perhaps as good an illustration of the principle mentioned as is possible. A very large majority of the officers in our army are inclined to think that the canteen is a good rather than an evil. Our private soldiers, it will be remembered, brave and excellent as they are, are ordinarily young men of no great experience in life, often men who have not succeeded well in their life-work, and men not too rigid in their views of morality. Usually they have been more or less accustomed to smoking, to drinking beer or stronger liquors, and often to perhaps even more injurious things than these could be. The officers feel that if they can have a room under the general supervision of the army post, where the private soldier can get tobacco, cigars, and beer, but no stronger liquor, and in which he can play games, but not gamble, he will be furnished a reasonable amount of, relatively speaking, innocent recreation, which will keep him away from much more serious temptations.

I have had cases given me of young men ruined by the drink habit "learned at the canteen." Without the canteen other opportunities are at hand under worse surroundings, and the habit would probably have been acquired at any rate, together with worse ones. Many people who are opposed to the canteen at the army posts say that the army officers are prejudiced; that most of them drink themselves. I have talked with many army officers and have had an opportunity of seeing some of the life at army posts. So far as I know, many of the army

officers with whom I am acquainted do drink an occasional glass of wine; I know of none who drink to excess. One experienced army officer, who had served for a considerable time in the Philippines, in speaking of this question, said: "The people who advocate the abolition of the canteen do not know what they are talking about. They think that I and other people in my position are prejudiced. It may be that we are, but they surely have no more information on this subject than I have. Moreover, they cannot have the same interest in the question. For many years my reputation, the success of the command under me, often my life, have depended upon my keeping my men sober and efficient for their work. Now I know from experience that if I cannot have at the post a canteen, where the men under my service will have some of the enjoyments to which they were accustomed before they enlisted, they will simply go outside the army post into much worse places and in much worse company, where they will indulge in habits that are far more injurious than taking a glass of beer. They will make themselves much less efficient for their work as soldiers than if they stayed in the army post and used the canteen under supervision. I think that people ought to realize that we, whose reputations, often whose lives, are at stake in getting the best results from our soldiers, are the ones who can best judge such a question." May we not keep then this principle of legislation well in mind, that if we wish to keep our soldiers sober, to hold them efficient for their work as soldiers, we should be ready to take the method to accomplish that result that, on the whole, is most likely to reach it.

Generally speaking, in most affairs of life, we are

willing to take the testimony of experts. Frequently those experts have their personal opinions also that influence their judgment; but they surely are entitled to a more careful hearing than those people who have not been trained. It may perhaps be that in this instance, as in many others which might be equally well taken as illustrations, it is unwise to attack the vice too directly by absolute prohibition which under the circumstances cannot be enforced.

We need in our country also to consider whether legislation is national, state, or local in scope, and to act accordingly. If legislation touches the individual directly in practically every locality, it is probable that a local option law will work to the best advantage, each locality deciding for itself the form of law suited to its conditions. So much depends upon public sentiment in any community that it is practically impossible to secure the enforcement of the law unless public sentiment is back of it.

On the other hand, if the question is one which touches the country as a whole, such, for example, as that of the railroads or of great industrial corporations engaged in business which covers the United States or even possibly foreign countries, no one state is in a position to control. Clearly, under those circumstances, federal legislation is desirable.

Legislative detail in very many instances may be left to voluntary associations, the state or federal law laying down simply general principles. We have ordinarily a general corporation law and each corporation is given the privilege of making its own by-laws. Likewise we may make laws for the organization of charitable associations or those which direct in general terms the care of the poor,

the unfortunate, the insane; and yet we may give the power of visitation and complaint and possibly even at times the power of direction to voluntary associations.

Frequently the effect is much better if the laws are general in terms and if considerable discretion is left to the executive or to some other competent authority to draft specific rules for putting the laws into effect. For instance, a general law might be passed to apply to every county of a great state whenever an executive issues a decree declaring that it shall take effect in a specific county. This is not exactly the same as local option, the discretion being left to the executive. Along this line has been federal legislation giving to the President the power of making certain modifications in the laws for foreign states with which the government has made reciprocity treaties. Of a similar nature is a general road improvement law in the state of New York, providing that it shall take effect in each county, town, or locality at the will of local officials or after a decision made by some state official. The chief point to be kept in mind in all such matters is to suit the laws to the nature of the subject in such a way that public opinion will support the enforcement of the law.

The question is at times asked whether no exception should be made, whether in a community of thieves, the laws forbidding theft should be repealed. In such a community the laws probably would be repealed, or we should have community of goods, or else among themselves the thieves would rigidly enforce the law. The principle is certainly sound.

A chief danger in a democratic country like the United States is over-legislation. Our legislators are naturally

ambitious to make a record before their constituents. Many individuals, corporations, or localities desire certain special privileges which may appear to be in their own interest but which may well be opposed to the general interest. There seems to be difficulty in placing a sufficient check upon the efforts of interested parties. On the other hand, however, we need to keep in mind the danger of general regulations, which tend to check individual initiative. Possibly nowhere else in the world, with the exception of some of the British colonies, are the conditions so favorable for securing individual initiative, for encouraging independent thinking and action, as in the United States. Indeed this may be looked upon as one of the chief excellencies, if not even the chief excellence of our political system. We need, therefore, to be extremely cautious about making laws which may restrict individual activity further than is necessary to protect the general public. State control of evil is good. We need to be cautious not to control so as to prevent the good or to take away the opportunities for the development of individual initiative.

This raises indirectly the question of direct legislation by the people, — in other words, the referendum and the initiative, — an extremely important matter in connection with legislation. In Switzerland, both in the federal government and in the cantons, this method of legislation exists. It is within the power of the voters in most of the cantons whenever a bill has been passed by the cantonal legislature, to petition that the bill be submitted to the people for their approval before it becomes a law. Some cantons go even so far as to require every general law to be submitted to the people before it becomes effective.

In some of the cantons, if the legislative body is slow in taking up a subject, the people may themselves take the initiative, petitioning the legislature to make the matter a subject of legislation, or even, if they prefer, requesting the legislature to consider a specific bill submitted. The legislature must then take up the subject or the bill, discuss it, and then refer it back to the people with their recommendations for final action and decision. We thus have the people, either directly or indirectly, legislating for themselves.

The question is one of the gravest importance and by no means simple. In discussing the qualifications for suffrage, likewise in the consideration of the principles of representation, it has been intimated that many subjects are so complicated that the average voter cannot be expected to express an intelligent opinion regarding them. It was said that it is difficult to see how the multiplication of ignorance can give wisdom, and that the statement often made by politicians who wish to secure votes, that all the people are wiser than part of the people is an unsound principle.

In one sense, of course, the principle as stated is true. If every individual in the community is taken, naturally there will be found among them men of experience who have made a special study of the questions to be answered, and by counting these and getting from them an opinion, a larger amount of information on any one subject can be secured than any one individual will possess. Ordinarily, however, that is not what is meant. The statement of the politician usually means that the majority of the people, experts and ignorant, taken together as a voting mass, are more likely to have a sound judgment on any specific

question than a comparatively small body of men, even though they be experts. That principle is unsound. A mere accumulation of the opinions of uninformed people on a set question will not give enlightenment. That must come from people who have studied and thought the question through and who know how to handle it.

On the other hand, it must be said that in very many instances the best law for any community is the law which the people want. Emphasis has been placed upon the desirability of having public opinion back of any law. If, therefore, there were two methods of accomplishing the same result, one with the great mass of the people back of it, the other, though possibly under many circumstances theoretically better but without the support of public opinion, every thoughtful student of politics would say that the method supported by public opinion should be chosen. We need, then, to emphasize both sides of this question. The best form of law is that in accordance with the opinion of experts and which has the support of public opinion.

Direct legislation has one decided advantage. It is educative in its tendency. Through the extended discussion of any subject by the people, they will secure great benefit, even though they do not get the best answers. If the question happens to be a complicated one, there will be many opinions, but even the attempt to think it through is helpful. For example, in the federal campaigns of 1896 and 1900, although a very great majority of the voters and very many of the public speakers were not competent to express sound opinions on the money question, the discussion nevertheless proved educative to a very high degree, even though the question, as has been seen, must have its ultimate settlement, if at all, through a careful study by

experts and the following of their opinions by our legislative bodies.

Moreover, it should be borne in mind that the people soon tire of the discussion of complicated questions. The experience of Switzerland shows that if not more than two or three questions are submitted to the people each year, they will study the questions fairly well and come out in considerable numbers to cast their votes. If they have several questions submitted, they will relatively soon tire, so that often not more than 25 per cent of the voters cast their ballots on some of the questions submitted, much depending, too, upon the subject. Under those circumstances, the educative advantage suggested is largely lost.

There can be no doubt that the referendum has a strong influence in checking corruption. The people will almost invariably defeat any bill that it is thought has corrupt influence back of it. In Switzerland, when the question of the purchase of railways by the federal government was under discussion, a rumor, presumably baseless, was circulated that high officials were personally interested in the purchase. Even though after careful investigation it seemed clear that the charge was unfounded, the matter was nevertheless taken up by the people by petition and then the purchase voted down by an overwhelming majority and the whole question was delayed for several years. It will doubtless generally be found that the people have the interest of the state at heart. They want the right thing, and the system of the referendum is almost certain to check corruption.

But if we are to submit to the people complicated questions, such as the tariff, banking reform, monetary reform, etc., we cannot expect them to vote intelligently. It is

very much more difficult to understand such a question than to select an attorney or an advocate or a representative to act for you. The representative method, under such circumstances, will probably secure the best laws.

The referendum, moreover, experience has shown, is subject to another abuse. If, for example, on a petition of 5 or 10 per cent of the voters, any question may be submitted to the people, we shall find a small party of extremists who may perhaps control the percentage of voters necessary to sign the petition, starting propaganda with no hope of getting their measure passed. They may, however, thus have the question discussed by the legislature and voted upon by the people at the public expense. This has been done repeatedly in Switzerland with practically no hope of any immediate success, but with the expectation merely of making propaganda for a small party at the public expense.

It seems clear that a general referendum that will submit all bills to the people would not be wise in most countries, — certainly not in so large a country as the United States. On the other hand, in practically all democratic governments, little harm could come from an optional referendum under which the people have a right to insist that the bill passed by the legislature be referred to them before it goes into effect, provided a considerable percentage, say 15 per cent or 20 per cent of the voters, petition for its submission. We might then be sure that a considerable proportion of the people were back of any such petition and that the public interest was really seriously aroused before the signatures for so extensive a petition could be secured. Under those circumstances, we should probably get more good than harm from the measure.

The fundamental principles of legislation may perhaps be summed up about as follows: The laws we make, the methods of legislation employed, must be for the purpose of improving society, must avoid extravagance, and must be adapted to the people and to the conditions and the time under consideration; otherwise they are likely to be both unwise and unjust.

VII

ADMINISTRATION

WITH so independent personalities as the present chief executives of the city of New York, the state of New York, and the United States (1908), one needs to be extremely cautious in speaking of the work of the chief executive. Although he may have in mind any chief executive, he is likely to be interpreted as praising or attacking one of the men now in office. You are probably familiar with Philip Gilbert Hamerton's discussion of the qualities of women in his book on *Intellectual Life*, and you will recall that in his judgment, if in conversation with a woman you speak of any characteristic of women in general, she is almost certain to take your remark as a personal matter. The newspaper writers in New York seem to have the same habit as regards any remark made of the executive. Whatever, therefore, may be said in this chapter, will have no reference whatever to any individual unless his name is mentioned.

The chief executive in all communities has, and must have, a most direct and positive influence upon public opinion by virtue of his position, far more influence than a member of the legislature, or one of the judicial body. The chief executive stands as the head of the army and of the navy. When he travels he usually goes in state, accompanied by a suite of followers. Particularly in Europe and in Oriental countries the executive consciously

makes an effort to capture the public imagination, both by the expensiveness of his modes of living and travel and by the court etiquette. Until within late years in most countries, and even now in many countries less advanced in civilization than are most of the countries of Europe and the United States, the belief in the divine right of kings or of the chief executives still exists. The ruler often stands not merely as the chosen representative of the country, but also as a representative of Deity, — he is the enforcer of the will of the gods, — so that when he speaks his words carry far more weight than do those of any other man in the community.

Furthermore, he stands alone, — one personality representing the whole community. In dealing with the legislature or with groups of citizens at home, and especially in his contact with foreign countries, he stands as one for the nation, because the state must act as a unit and under those circumstances he is the only possible representative. In this way his position is such that he will certainly capture the public imagination far more than can any legislator or any ordinary official who stands merely as one of hundreds.

This position gives not merely political but social influence as well and this accounts also for much in the way of the exercise of power. In our afternoon gatherings at the present time large numbers of men will be seen wearing Prince Albert coats. That simply means that Prince Albert set the fashion several decades ago. Napoleon the Third set the fashion in mustaches widely copied in his own country. In Germany one has but to note the appearance of the young men of military proclivities or of social ambition in order to see how influential is the mustache

of the Emperor of Germany. Even in the United States, the wife of the President may send a handkerchief to a charity bazar with the certainty that it can be sold for many, many times its value as a handkerchief. These trivial things merely emphasize over and over again the fact that we are creatures of habit and that unthinkingly we follow fashion. This being the case, we can readily see that the chief executive in every country will count for far more than any other man so far as mere opinions are concerned.

Indirectly, however, this social influence of the chief executive is reflected even upon all others closely associated with him, such as members of the Cabinet in the United States or members of the aristocracy in England and Germany. A member of the House of Commons, representing a labor constituency in England, told me some years ago that the feeling of his constituents regarding members of the aristocracy was often very embarrassing. It is a well-known fact that votes of the members of the House of Commons in England are often thought to be indirectly influenced by invitations to dinner and other social attentions from members of the aristocracy. This influence is likely to be greater over members from the country districts and possibly over the impecunious members of the labor party. In consequence, knowing that even the suspicion of influence of that kind could not be treated lightly, he had kept throughout his entire parliamentary life, extending over many years, every invitation, letter, and card received from any member of the aristocracy with a record of what had been done with it; so that if the charge were ever made that he had neglected the interests of his constituents on account of his desire for social favors, he

would be in a position to show that the charge was unfounded.

Within certain limits, of course, this personal prestige of the chief ruler is an excellent thing. A free country should be a country of law; and it is well that the man who puts the laws into effect should stand in the minds of the community as a representative of the country as a whole, both at home and abroad, representing thus not merely his city, his state, or his nation as one, but also the majesty and sacredness of law.

This attitude of the people toward the chief executive will naturally vary under different circumstances. In times of crisis, especially in times of war, when the executive must act and act promptly, his power will normally increase at the expense of the legislature or of the judiciary. Probably we have never had any President of the United States less inclined to grasp after power than was Lincoln, but no other President has taken and used the power as did he; no other was ever so much of an autocrat as was Lincoln at the time of the Civil War. The exigencies of the time were such that we needed a prompt and firm executive. He took that power and justified himself for it in the minds of the people; they stood back of him.

On the other hand, it is through the legislature that the executive must get his revenues, the means by which he can accomplish the work put into his hands. Through this power of the purse in ordinary times of peace, the legislature is likely to get control of the executive. Through this means the English House of Commons gradually, through the course of centuries, has strengthened its hold over the executive until finally, by virtue of its power practically to nominate and to elect the Prime Minister,

it has placed the executive in absolute subordination. In ordinary times in the United States we may note that our House of Representatives and our Senate are often seeking to extend their authority. By virtue of their function of confirming appointments to office or treaties, the Senate has often taken to itself not a little of the work of the President. In all countries we must expect a continual struggle between the executive and legislative bodies. Circumstances at different times will determine which has the advantage in the contest.

In every position in all countries much depends upon the personality of the people concerned. This fact of personality, as compared with mere governmental function, can never be overlooked. The relations of Congress and the executive depend largely upon whether we have a Jackson, a Cleveland, or a Roosevelt for President, or a Monroe, a Van Buren, a Johnson. In Great Britain the personality of the Prime Minister counts for far more than that of a member of the judicial body or of any mere member of the House of Commons. And as between executives, a Gladstone or a Disraeli will exert an influence far beyond that of any ordinary Prime Minister.

With these facts in mind the executive of course should be scrupulous and endeavor not to encroach upon the power of the legislature or to attempt to purchase or to coerce the legislature by appointments or threats of opposition as presidents and governors have done at times and doubtless are often tempted to do. Nevertheless, the executive cannot avoid his responsibility in connection with legislation.

In the United States he is under obligations, through his messages, to recommend laws and to do all that may properly and legitimately be done to promote the legislation

that he believes to be in the interest of the community. An executive who is able and who has caught the popular imagination, may often through his power of recommendation determine legislation, because the people through their contact with their representatives will practically compel action in accordance with his advice.

On the other hand, in his recommendations to the legislature, the executive is likely, within certain limits, to seek for influence through the advocacy of popular measures. If the President wishes a reelection, or even if a reelection is not in mind, it is natural that he should wish to please the people either by advocating legislation which they wish or by vetoing unpopular measures. Our Presidents and other executives are human like the rest of us, subject to the same temptations, and we must expect that they will often unconsciously yield to this desire. But there is a reason for such action beyond the desire for popularity. We have already noted that it is a positive injury to the state to have laws on our statute books that do not have the support of the people, because under those circumstances they cannot be well enforced. It is sometimes a sufficient reason for a law, or at any rate for a special form of law, that the people desire it and will support it. The executive, therefore, ought, in his recommendations, to keep the popular will in mind.

Aside from that the question is often asked whether our executives, generally speaking, ought to enforce an unpopular law or only those laws that they think the people approve. We know that as time goes on laws that perhaps were desirable at the time they were passed become practically obsolete. The occasion for their enforcement has gone by; they are forgotten. Other laws, passed perhaps

in a flurry of popular excitement, being unwise, have become a mere dead letter. Under his oath of office the executive swears to enforce the laws. Does this mean all laws, even those repealed by neglect? It is difficult to lay down a general principle. Probably it would be sufficient to say that every new law put on the statute book, every law clearly in the popular mind, the executive should enforce, even if he believes it to be unwise, because in that way better than in any other he may secure its repeal, since there is no better method to enable the people to judge the effect of laws than to enforce them. Laws, however, not in the popular mind and apparently applying only to conditions of the past, might well be allowed to rest.

Much has been said within the last two or three years of the so-called Sherman Anti-Trust Act. The law was doubtless passed in good faith, but as the result of the interpretations put upon the law by the courts, many people have believed that it is now unwise. With the popular feeling, however, concerning the law, it would seem to be wrong for the executive not to attempt to enforce it. Whatever hardships may result, the people and their representatives should decide when the time has come for its repeal. The educative influence on the people of learning from their own mistakes is something that cannot be gained in any other way than by experience, and this should not be neglected. We all know the peculiar advantages of education by experience upon ourselves as individuals. What other people tell us we take on faith; we think that perhaps it is good for us, but its direct educative influence on our lives is not half so much as the lessons learned through our own mistakes. As it is with us as individuals, so is it with the country as a whole.

Our legislatures sometimes sin in their relations with the executive. Some years ago I was talking with a member of the Senate of New York regarding a bill then pending in the Assembly. I said, "It seems to me that the bill is unwise but it appears likely to pass the Senate." He replied: "Don't be troubled about that; there is an understanding between the committee of the Senate and that of the Assembly that the bill, on account of the personal interests of the constituents of some members of the Assembly, will be recommended by the committee and passed by the Assembly, but it will be killed in the Senate committee." There is no doubt that in a similar way laws at times are passed by legislative bodies with the expectation that the executive will either veto it and thus kill it, or that later it will not be enforced. This is a serious matter, a policy as injurious as it is contemptible. If the executive neglects at times to enforce an unpopular law, even though it is in the mind of the people, how much worse, how much more contemptible it is for a legislative body to force such a decision upon an executive, either because the members of the legislature are too cowardly to block the legislation when the responsibility is divided, or because they wish to embarrass the executive, if he happens to belong to the opposite party or to be unpopular.

Another source of power of the executive is found in the fact that in the enforcement of the laws he, of necessity, to a considerable degree must interpret them, a fact that is often overlooked. Any law that is at all complicated is certain to be more or less ambiguous, and usually there are different ways in which it may be put into effect. The chief executive, often even subordinate executives, are compelled to make rule after rule for the guidance of officials in enforcing

the laws so that they may know just how and where and when action must be taken.

For example, Mr. Shaw, when Secretary of the Treasury, in his interpretation of the law authorizing the Secretary of the Treasury to deposit public funds in the national banks, so interpreted it as compared with Secretary Fairchild and other predecessors, that it was practically the making of a new law, at any rate an important amendment to the old. In similar ways careful and conscientious secretaries have changed and modified the immigration laws and tariff laws, and invariably that must be the case. Furthermore, this principle goes in many ways beyond general interpretation of the law by the secretary as a mere individual. The secretary acts directly in determining the banks in which deposits should be placed and the securities that should be taken, but many laws cannot be so simply enforced. In many instances the secretary's general attitude will affect the action of his subordinates. Naturally they wish to stand well with him. If the secretary says, or if he is thought to desire a liberal interpretation of the law, the law will be so interpreted. If a new secretary is appointed who says or who makes his desire clear that the law should be interpreted and enforced strictly, that will be done; so that the change in secretary often changes the spirit of enforcement of laws. Beyond doubt this influence has been often felt in connection with the enforcement of the immigration and tariff and tax laws. If a tariff act is passed by the Republican party and a Democratic executive comes in, in making rules for the interpretation of the law, with perfect conscientiousness he may very decidedly change its spirit. If he changes its spirit, his subor-

dinates will follow. I recall a conversation with one of the assistant secretaries of a great department at Washington regarding a ruling which was then pending. The matter had been referred to a subordinate for an opinion. The subordinate had hesitated for weeks, making no ruling. When the assistant secretary reproached him for the delay, saying that he must have a decision immediately, the man replied: "Well, I was not quite sure how I ought to rule in this matter, because I know that the person who brought this question up is a friend of yours and I did not wish to hurt his feelings." "Neither I nor the man who brought this matter up is a person of that type," was the reply of the assistant secretary. "We want a ruling that is best for the department and the country and we won't stand for anything else." The spirit of the subordinate, nevertheless, was that he wished to please his superior officer, and that he was perfectly ready to rule whichever way the superior wished. This may be contemptible, but it is human.

On the other hand, is it perhaps the duty of the subordinate to say, if the law admits of two interpretations, "It is my business to carry out the interpretation put upon it by my superior"? If the matter is then carried into the courts, a court decision will settle it. The cases, however, that come before the courts are extremely rare, and too much care cannot be taken in securing executives who will endeavor to put their personal predilections into the background in the interpretation of the laws as they exist. Few of our higher executives could probably be charged with considering at all their personal interests. If they are consciously warped at all in their decisions, it is rather by interests of party. Most frequently the only influence that

touches them is that of prejudice or bias from their training.

We should emphasize the fact that the subordinate will follow the will of his chief and wherever that will can be ascertained, he ought so to do. We would not for a moment consider the propriety of a first lieutenant or a captain of the army venturing to modify the orders of his general. While the case may seem less extreme in the civil service, the same general principle holds.

In many instances administrative governmental work is like that of a great corporation. The United States Treasury is perhaps the greatest bookkeeping and disbursing establishment in the world. The Post-Office Department is much like that of a great express company. The whole administrative service is similar. Although in the case of most subordinates no question of the interpretation of the law comes up, it is still a matter of the gravest importance to select the right subordinates. Those who stand by the side of the chief executive, as, for example, the members of the Cabinet in the United States, become his advisers. They are expected to help determine his policies, deciding what is wise and what unwise for the interests of the country. Persons in such positions should, of course, work harmoniously as far as possible. They should not hesitate to express their views; but in carrying on their public work they should be a unit. It is therefore desirable for the President to select members of his Cabinet, his chief advisers, from his own political party. Although he is the representative of the country as a whole, he has been selected in part as the exponent of the policies of his party. In consequence, those officials who determine policies should be those who, in the main, are in sympathy with his general views.

For somewhat different reasons, nevertheless for a sufficient reason, it is desirable that the members of the Cabinet in the United States that join with the chief executive in formulating policies, should represent, other things equal, different sections of the country, in order that the chief executive may be in touch with conditions and sentiments throughout the land. This principle of geographic representation may, of course, be carried altogether too far, so as to bring into an important position men who are not of first rank; but other things equal, the principle is wise. Presidents perhaps lay undue emphasis upon the principle, especially in the appointment of subordinates who have merely clerical work to do; but for those who formulate policies, it is clearly a right principle.

A somewhat similar question at times arises regarding the representation of different races in advisory positions. In some countries this principle is carried out. In the Straits Settlements, for example, in the Governor's Council, there is a representative of the Chinese race, because he can understand and explain better than any one else what the Chinese, who are very important factors in that country, desire. For similar reasons a representative Malay will be found there. It is, of course, desirable that the President of the United States should keep in touch with public sentiment throughout the country, but for other reasons that are far more than enough to counter-balance, it would probably not be desirable for the President to attempt to have the different races represented in his Cabinet. The policy of this country is to assimilate different elements, to ignore so far as possible different interests, and while not neglecting the conditions that actually exist, to attempt to subordinate the

interests of every race and class to those of the people as a whole.

In a somewhat more direct form we find the question raised of the representation in the Cabinet of certain industrial classes, such as the labor unions, or the capitalists, or the railroad men, in order that the President may keep closely in touch with these groups. It will readily be seen, however, that this is not necessary and that the principle would be a very dangerous one to establish. It is necessary, with reference to general public policies, such as are represented by his party, that the executive have harmony; but when he needs expert advice with reference to the railroad question or the labor question or the money question, he can readily get information and suggestions from the representatives of any of those classes by inviting them to come to see him and present their case. Usually they are ready enough to present their claims, even without an invitation. The representation of different industrial classes in the Cabinet would not tend toward harmony, but rather toward conflict, and would produce an evil greater than would be the benefit to come from the added information.

By far the largest percentage, however, of the persons in our civil service are those who have to do routine clerical work. They do not help formulate the policy of the government; they must take the policy already formulated. They should be honest, diligent, faithful, efficient. These qualities in most countries with a large civil service, it is found, can best be determined by competitive examination. There are doubtless many weaknesses in the United States service which should be reformed. A competitive examination will doubtless show knowledge and training and experience fairly well; more, however, is needed.

In very many instances the appointment should, if possible, be made to depend upon the personality, — qualities of sound judgment, of temperament, of discretion, of tact. Although some of these may be in part shown by an examination, many of them cannot be thus determined.

Even worse, perhaps, than this weakness of the civil service examination, is the restriction of the executive as to the number of people that he may choose from in making his appointments. Some time ago an appointing official, who, so far as I can judge, has never kept anything in mind except the good of his department, had to make perhaps seventy-five appointments. Examinations were given; something over a hundred people took them. He said: "I have to make seventy-five appointments. I have only a hundred people to choose from. Since the examinations were held people have come to me who I have no doubt could have passed the examination, — people who are clearly better fitted for the positions than any one on the list. I am not able to appoint any one of them under our civil service system. The restriction is too great for the good of the service." On the other hand, there is no doubt that he would say that, on the whole, he favors decidedly the competitive examination system, since without it he would be placed under such pressure for the appointment of favorites of high executive officers, of congressmen, and of politicians, — a pressure that it would be very difficult for him to resist, — that more harm would be done than by the limitation of appointees under the competitive system. On the whole, then, in a country like ours, we may conclude that, although it has its weaknesses, the system of competitive examinations is the best for the filling of mere routine clerical positions. Much, of course,

will depend upon the membership of the civil service board that sets the examinations, because very much can be done by appropriate questions and by proper weighing of experience, letters of recommendation, etc., as compared with mere knowledge.

Under no circumstances should party service give any one a claim to office beyond this, that in many instances a man who has been active in party management has shown thereby ability, power of leadership, judgment of men, and such qualities, so that to a certain extent his party service has been a test of his ability not easy to secure in any other way.

In our discussion of governmental affairs we often fail to realize how much work must, in fact, be left to subordinates, and in consequence how careful we should be in their selection. The necessity of trusting subordinates to a great degree is one of the weaknesses of any executive work, especially of government service, where it is more difficult to secure a personal check than in the case of a private business. Take, for example, the case of the President of the United States. He receives hundreds, even thousands of letters some days. It is utterly impossible that he can read or even know anything about a very large percentage of them. They must be read and sorted by his secretaries, and in most cases the proper action must be taken without consulting him. Likewise, he has hundreds of callers every day under such circumstances that he is compelled to see most of them even though for only a few seconds. There must therefore be a sifting through his subordinates of the people who have access to him, as well as a sifting of the material that comes before him for decision. One man should be given thirty seconds, another man three minutes,

another man five minutes, another man fifteen minutes, another perhaps several interviews of an hour or two each. Most of this sifting must be done by subordinates; the most important cases he will decide for himself.

In most cases also the subordinate must read the letters, forecast the decision, prepare the reply, and present it to the chief for signature. In all routine matters, if the subordinates are faithful, this course of procedure is safe. Often, however, the chief has to hear a case and determine it in perhaps a minute or two. The whole case is presented, the important argument put before him in a letter written by his subordinate; he must make his decision. Under these circumstances, mistakes will of course be made. A case — I am glad to say in a foreign country — came to my attention a few months ago in which, contrary to the orders of his superior officer, a subordinate, who thought that he would not be caught, practically snubbed in the rudest way a representative of a foreign country simply because he happened to have a prejudice against that country. His superior officer later heard of it; the subordinate lost his position. In any event the subordinate is more likely to be neglectful and to do the wrong thing than is his superior; nevertheless he must usually be trusted. If people knew how much had to be left to subordinates, they would often wonder at the real success of the government of any great country.

Under the circumstances, we see that every effort should be made to give the chief executive the opportunity to know what his subordinates are doing and how the administration is carried on. Every facility of inspection by trusted confidential agents should be given him. The public, every citizen of the country, noting failures or

carelessness or faults in the administration of the government, ought to let the chief executive know. Usually complainants are mistaken, as they do not realize the circumstances under which the work is done; but in many cases, too many cases, the subordinates are not doing proper service. The chief executive should always be ready to investigate complaints made by private citizens.

The executive department, if it is to be efficient, needs centralization. Efficiency in any great business enterprise means action as a unit. In legislative matters decentralization is better. There should be consultation with people of different points of view. There must be deliberation before reaching a judgment that often must be a compromise and the work must be arranged accordingly; but in executive work we must have centralization. The liquor tax, for example, cannot be collected in different sections of the country at the will and wish of different classes of people. It must be collected everywhere in the same way.

On the other hand, in local matters discretion should be left as far as possible to people in the locality. In such things the principle of home rule is sound. We sometimes speak of home rule in matters that affect the state as a whole. That is a mistake. The right principle is local option, decentralization in local matters, centralization in matters concerning the country as a whole. But even when the principle of decentralization is applied, it is still often desirable that there be central inspection and report, as in Great Britain the Local Government Board inspects local administrations, even auditing their accounts. There should usually be a central bureau securing data on local matters, in order that each locality may benefit by the

experience of all. In very many lines of work in this country we should find it profitable to have even a federal bureau for inspection and report along many lines of general interest.

There has been much talk, and even the federal courts have decided, that we have in the United States the principle of the separation of the powers of the executive, the legislature, and the judiciary. It is perhaps well to hold each branch of government separately responsible for its own work so far as possible. Subordination of one to the other in this country is probably not desirable, but there can be no complete separation of the work of the executive from that of the legislature. They may be and ought to be largely coördinate. They must, moreover, work together, with constant interchange of information and opinions, rendering each to the other every assistance possible. Otherwise we cannot have an efficient service.

One question further in connection with efficiency must be touched upon. How much in the way of service to the public should be left to private enterprise, how much given over to public officials? In the government service, especially when appointments are somewhat permanent in their nature and a man feels that in his position he is fixed for years or for life, there is danger that the officials will become more or less neglectful of their work, or at any rate that they will not be so enterprising in seeking for new and better methods of work as are those in private enterprises who are not merely looking for promotion, but who feel that they are likely to lose their positions under the pressure of competition if their work is not of the best. And still nothing could be worse than the constant shifting of public officials, especially if this were done through the

desire for partisan advantage. Generally speaking, experience shows that the public work is likely to cost more than that performed by private persons or private corporations for their own advantage. And yet this is by no means always the case. It is little likely to be the case where the work itself is directly connected with the government. Doubtless in many instances we should extend the sphere of public activity, but in every case the burden of proof that a change will improve the system, should rest upon those who advocate the substitution for private enterprise of public management or control.

VIII

THE JUDICIARY

THE most important work of the courts in all countries probably is to declare the law, to tell what the law is. The importance of this task is perhaps especially great in the United States; even more than elsewhere, because here the courts have the prerogative of nullifying the law by declaring it unconstitutional, while in most European countries the legislature is the final judge as to the validity of any act, the courts rendering a decision only on the question of interpretation, or possibly of regularity of procedure in its enactment.

In all countries the courts have to render decisions under the laws. This means interpretation, and in consequence very frequently, as time goes on, more or less modification of the laws. In all countries illustrations of judge-made law are innumerable. When the Sherman Anti-Trust Act was under discussion in the Senate, it is reported that speakers before the committees and probably a very large number of senators were of the opinion that, while the act about to be passed was intended to prevent all combinations that should injuriously restrain trade, it was not the intention to forbid combinations in restraint of trade, provided that the restraint was not injurious to the public. It was doubtless thought that in many instances a certain degree of restraint of trade might prove beneficial. Furthermore, in the opinion of many of the senators, the act

was not intended to include railways, but merely the so-called industrial combinations.

When, however, it became the duty of the Supreme Court of the United States to interpret the act, it was declared that it applied to combinations among railroads as well as to other combinations, and furthermore that it forbade all contracts and combinations in restraint of trade, whether they were injurious to the public interests or not. The court took the position that in case Congress wished to have the act apply only to those combinations in unreasonable restraint of trade or those which were injurious to the country, it should have clearly expressed that opinion; that if Congress now wished a different interpretation of the law, it was within its province and its duty to amend the act. Furthermore, it is stated that during the debate in Congress on the subject, a question was asked of an influential senator regarding the meaning of a certain clause. He said that could not be known until after the Supreme Court of the United States had made a decision on that point. Many people believe that our legislatures, whether state or federal, are careless regarding legislation, allowing bills to pass of which the meaning is ambiguous. This, however, was not the thought of the senator. He meant rather that, although he might be willing to say what he believed the act meant and what his thought was at the time that he voted, there could be no authoritative statement as to the meaning of the clause in question until the Supreme Court had rendered a decision. And this is a sound opinion. Legislators should, of course, be as careful as possible to avoid ambiguity in drafting acts; but however careful they may be, they can never be entirely sure regarding the interpretation which the courts may

place upon them, and even the courts, although they hold themselves more or less bound by precedents, may at any time modify previous decisions.

These statements should not be understood as attacks upon the Supreme Court of the United States or of any court. We ought not to forget how extremely difficult it is for any man to make any statement that may not be misunderstood by people at other times if they approach the subject in question from a different point of view. But when a court expresses its opinion that declares positively what the law is, the opinion is authoritative.

The very great significance of this power of interpretation must not be overlooked. Take, for example, the doctrine of the implied powers, as it is called, in the federal Constitution, and note what that means. When the Constitution first went into effect, one of the great political parties of that day held that it should be interpreted strictly; the other, believing that the Constitution was drawn in general terms, favored a somewhat liberal interpretation. Had the Supreme Court in the early days been committed strongly to the first doctrine, our Constitution to-day would have been vastly different in its effect. Chief Justice Marshall, in the great case of *McCulloch versus the State of Maryland et al.*,¹ established the doctrine of implied powers and thereby changed the entire course of not merely the legal history, but also of the economic history of the United States. Can one question that if in that great case the Supreme Court had decided that the separate states had the power to tax a United States bank, the entire course of business history would have been changed?

The Dred Scott decision was of perhaps vital importance

¹ 4 Wheaton 316.

in bringing on the War of the Rebellion. If that decision had been couched in different terms, even though the same point had been upheld, it is quite possible that the activities of political parties would have so changed their direction that entirely different results would have been reached. The tremendous import of this power of interpretation of the Constitution can scarcely be exaggerated.

Even if legislatures do their best, the laws will be ambiguous. But aside from the power of deciding ambiguities, the legislatures frequently, by drafting their laws in general terms, expect that as time goes on and specific cases arise under differing conditions, the courts will be able better to apply that law than the legislature itself could do if it attempted to draft the act in specific terms suited to all times and places. It will be recalled that in referring previously to the work of the legislature, it was noted that in England and Germany laws were much more likely to be couched in general terms, leaving to the executive the power to determine within reasonable limits the specific times and places and manner of putting the law into effect. But even with this liberty given to the executives, disputes will still arise which must have an eventual settlement in the courts. Misunderstandings are inevitable. Some weeks ago a friend of mine in referring to business troubles stated that in his judgment perhaps nine-tenths of all lawsuits and probably an even greater proportion of all personal quarrels came simply from misunderstandings. Neither party wishes to make trouble or intends to start a quarrel; they fail to make themselves understood. If we did not have a misunderstanding and a misinterpretation of the laws, there would be few quarrels, — practically no lawsuits.

But even beyond these difficulties still others arise from the fact that as a society develops conditions change, and the old laws must be put into effect under new conditions not contemplated at the time that the laws were passed. The Interstate Commerce Law, as it stands at present interpreted in the decisions, must, of necessity, be entirely different from any thought that could have been in the minds of the framers of the Constitution in discussing interstate commerce. In that day the only commerce that they could have had in mind was that relatively unimportant commerce coming across state boundaries either by river or along the coast, and perhaps some minor traffic brought across the boundary line on country roads. No such system of transportation as the present, with several lines of railways running from one side of the continent to the other, could have been contemplated; but the exact effects of that inclusive clause giving to Congress the power to regulate commerce is such that no matter what new problems come up, that one clause must still be interpreted under new conditions by our Congress or by our courts.

And when we get, as we shall shortly, aerial navigation, we shall doubtless have cases arising where people starting in one state, going to another, passing over the heads of people in a third state, will need to know what sort of a claim or protection the citizens of the middle state may have. This is entirely possible, and when such cases arise, our Supreme Court must tell what is the wisest way, in the light of aerial navigation, to interpret the clause drafted into the Constitution more than a century ago.

There will always be development with the progress of civilization. In consequence our courts must practically make new laws in their interpretation of the old laws under

the new conditions. The voice of the legislature in any interpretation given to the Constitution is only tentative. When the court speaks, the final word is spoken. In consequence it will be seen that the court must exercise much discretion. It ought to keep in mind the general welfare of the people, and when the law may possibly be applied in several ways, the court must bear it in mind that when the law was passed the legislature wished the welfare of the citizens. They, therefore, should take the interpretation that will benefit the country most, unless such an interpretation would obviously be too strained.

To secure the wisest interpretations under such circumstances, it has often been suggested that our courts obtain in some way the benefit of lay advice. Our judges are practically all highly trained lawyers, especially those in our highest courts. They know the decisions, they understand the precedents. But is it to be expected that, able as they are, their time having been devoted from early manhood to the study of legal precedents, they will understand thoroughly our economic conditions, our varied business interests, and in consequence the conditions on which are based the business welfare of the country? If any criticism can be made against our courts, it is that there may be a lack, not of knowledge of law, not of clear-headedness, not of upright intention, but knowledge of business conditions or of social conditions to which the laws must be applied. In criminal cases we attempt to supply to the courts the average common-sense judgment of the common people through our juries. In certain civil cases involving technical knowledge, questions of fact are put into the hands of referees to make a report. A suggestion interesting and well worthy of consideration has often been made, that our

courts would be greatly strengthened if a minority of the members were men trained in the principles of business, perhaps men of wide business experience, who, while, relatively speaking, untrained in law, would see best how the law should be applied to the business conditions of the day.

It has been said that several of the decisions of the Supreme Court of the United States made during the last ten years would quite probably have been decidedly different had there been in that court even one judge who thoroughly understood business conditions and the effects upon society of the decisions contemplated. It will be recalled that several of the most important decisions have been made by a vote of five to four. It is quite possible that had the court possessed more varied and accurate knowledge of business conditions, at least one or two votes might have been changed.

Judge-made law is very frequently technical in its nature. It ought to be conservative, as it usually is always somewhat behind the times. If any radical laws are to go into effect, they should not be made by the court but rather by the legislature, because they will then come directly from the people connected with business and social conditions.

Judge-made law, applying to new conditions, must of course appear only after the new conditions have come. It must be behind the times. The criticism sometimes heard that the court decisions are reactionary and hark back to what is unreasonable and undesirable, judging from actual business and social conditions, is of necessity unjust. The decisions cannot precede the conditions.

What is the real significance of the act of a court declaring an act unconstitutional? Does it not mean that it is the

business at times of our courts of appeal primarily to thwart the present will of the country as expressed through the legislatures or through a Congress that has comparatively lately been elected, in order to maintain in effect the more deliberate judgment of the country as expressed in its constitution? A change in the constitution is a deliberate act, purposely made difficult. The form of constitutional amendment is different in various states, but in all states the process must be deliberate and the amendment finally submitted to the people for confirmation. If the legislature attempts to pass new laws and thus to bring new thoughts into effect in legislation, it is probable that it represents at the present time the real will of the people better than does a constitution made in years gone by; but on the most important questions the courts may well thwart this present will of the people in order that the matter may be thought over again and the people compelled to say after such deliberation whether they seriously mean to amend the constitution. It will be recalled that in the chapter on representation the sentence of Edmund Burke to the electors of Bristol was quoted in which he declared that he appealed from the opinion of his constituents of the day to their opinion as it must be five years thereafter. That is practically what a court does when it declares an act unconstitutional. It appeals from the present opinion of the people as represented in the legislature to their more deliberate opinion. Going back to their original thought in making the constitution, the court declares that if they wish to change that opinion, it must be a very deliberate act of their own by a constitutional amendment, not by a legislative act.

But, though the courts often refuse to permit a legis-

lature to change a constitution except by deliberate act of amendment submitted to the people, the will of the people will ultimately be effective even through the courts. I do not mean to say that the courts will truckle to popular opinion or be swayed too rapidly by popular opinion, but since the opinion is changing year by year, it will ultimately be found that the courts will reflect such change. We get our opinions on practically all local, political, and social questions from the circumstances in which we are living. As these change, our judgments change. In consequence with the changes in judges and with changing conditions, the opinions of the courts must vary.

There have been charges at times of political agitation of a desire on the part of leading politicians or statesmen to "pack" the Supreme Court of the United States. When we consider how many important decisions have been rendered by a majority of one, it will be seen how easy it would be for the executive, without appointing a bad judge or an insincere judge, to select a man whose inclinations would normally be such that, siding with the minority of four, he would change the interpretation of many of our most important laws. But, without any deliberate attempt so to influence the conclusions of the court, we must expect that as time goes on many decisions will be reversed and our Constitution thus gradually developed.

This power of the courts of the United States of declaring an act unconstitutional is most significant. In no other country in the world have the courts such power. Nevertheless, students in other countries frequently recognize this power in our court as something extremely desirable as well as suggestive. At the time the Supreme Court of

the United States rendered its decision on the income tax, I happened to be in Geneva, Switzerland. The report of the decision came next day in the news despatches. A banker of considerable influence in the community, a prominent citizen, said that to him it was a most surprising fact that a court could, by making a decision in a specific case, set aside the will of the people as expressed through the legislature; and still more surprising, he thought, was the fact that the people could be found that would support the court in making such a decision. "In Switzerland," he said in effect, "if the court were to say to the executive that an act by which they were already collecting a large revenue were invalid and could not be put into effect, the decision would not be obeyed; but with you in America there seems no thought on the part of any one of attempting to resist the decision of your Supreme Court. I do not believe there is any country in Europe where such an act of a court could be permitted, nor any country where the people would not support the executive in resisting a court under such circumstances. The fact that the people of the United States are so amenable to the law and the Constitution that they are willing to support the Court as against their own representatives, is the best evidence that can be secured of the ability of the American people to govern themselves." I have never heard stronger terms of admiration for the American people than this expression of opinion. I said to him, "Do you not believe that the Swiss people would stand by your court under such circumstances?" "I do not," he said. "In Switzerland the legislature is the final interpreter of the law. If any attempt were made to overturn its will by the court, the executive would resist and the people would support the executive."

The power of the courts most noticed in everyday life is that of punishing violators of the law of the state and that of settling disputes between different citizens, whether the injury come from an assault or a crime against a person, or the violation of a contract, direct or implied. Such powers need no discussion.

In uncivilized states the injured party is supposed to redress his own wrongs. The appointment of courts to settle disputes so as to avoid private vengeance is one of the most accurate marks of a progressive civilization, and one that it takes centuries thoroughly to establish.

In some countries exist most interesting institutions of a legal nature to forestall in the interests of peace the settlement of disputes by courts of law. In Norway, for example, exist courts of conciliation. Two men, usually substantial men of the community, are selected as men of good judgment whom the people can trust. In case a dispute arises between two individuals, before the case can be brought into a court of law, the parties are expected to come before this court of conciliation. They come alone; the public is not admitted. In certain instances they may bring a friend to help explain to the court what the dispute is about; no lawyer is admitted under any circumstances. The disputants state their case in their own words; they are questioned by the judges until the case is understood. The judges then state what they believe to be a fair basis of settlement, and attempt to harmonize the feelings of the two disputants. Inasmuch as most of our disputes arise from misunderstandings, when the cases are presented to two disinterested parties, they can usually find out the point of misunderstanding and settle the trouble. Very generally people coming to the court of conciliation in anger

go away friendly. More than 90 per cent of all disagreements that come before these courts are settled before they come to a court of law at an expense of only some 75 cents. In case a settlement is not reached and the people are not willing to leave the dispute to the arbitration of the judges, they may go on and bring suit at law. In that event, a party who has been willing to accept the opinion of the court of conciliation may state that fact, but it has no deciding effect.

It is clearly worth while to attempt to settle disputes in this friendly way. Too often at the present time a little misunderstanding is developed into an important lawsuit through the biased action of an interested lawyer or of unwise friends. How much might well be saved to the industrial interests of the country if the court expenses could thus be avoided. We have the beginning of such a court in modified form in North Dakota. Such institutions might well be generally established.

On the continent of Europe there are special administrative courts to settle cases in which public officials are concerned. If, for example, the postmaster in his official capacity wrongs a citizen and complaint is made, the question comes before an administrative court made up in part of officials trained along administrative lines as well as in law. In Great Britain and in the United States administrative officials under similar circumstances are brought before the regular courts.

It is desirable, of course, that matters concerning the administration of the state be settled by those skilled in administration. Those who look at administrative courts from the point of view of an American or an Englishman are likely to feel that they are a device of the executive to strengthen his own power and to prevent subordinate

officials from being punished by another branch of the government for remissness in duty. Countries with a strong tendency toward centralization are likely to establish administrative courts; those disposed to be jealous of executive power will prefer the American and English method of control of administrative officials.

The question is frequently asked whether it would not be wise for the courts that have the power of declaring an act unconstitutional, to express an official opinion regarding the constitutionality of a bill pending before the legislature. A member of any of our courts, if asked his opinion regarding the constitutionality of a bill, will usually decline to express an opinion, saying, The matter may come to me for interpretation later; until then I must not interpret it. Excepting in a few states where such action is provided by the constitution, the courts generally refuse to express an opinion on pending legislation. They decide only specific cases brought before them. This is a wise policy. It is extremely desirable that our courts be kept free from any partisan tone. Many of the bills pending before the legislatures affect political interests and political parties. If the courts are compelled to express opinions on such matters in advance, they are much more likely to be charged with partisanship. After the bill becomes a law the court in a specific case does not pass its opinion in general terms upon the meaning of the law, but it decides its application under the circumstances arising in the special case. It may thus easily avoid the charge of partisanship.

Impartiality of the judiciary must be secured. The judges should therefore be independent of the legislature and of the executive as regards the tenure of their office, their salaries, or the way in which their work is to be done.

Many people think that it is wise to have the judges in our higher courts appointed by the executive instead of elected. Some favor terms of office comparatively short, say six or twelve years; some think judges should be chosen or appointed during good behavior or for life. Most writers on the question seem to favor the appointive system and to suggest that judges be appointed for life or during good behavior. The probability is that the difference of the results secured by these different methods of appointment is not great. With here and there an exception very little has been said against the elective courts of the United States. Generally speaking, our courts of last resort and often our minor courts are institutions very creditable to the people of the United States, even in the eyes of foreigners.

The term of office should doubtless not be too short. There is an expense in changing judges too often; the time required for working into the duties of the office so as thoroughly to understand them is considerable; it is important that lawyers learn to know the judges, and the judges learn to know the men who appear before them. There are certain dangers in the appointment of judges for life. The judge may perhaps not retire at the time when his powers begin to fail; but with proper retirement pensions or certain regulations governing retirement, this evil may largely be avoided. The difficulty is inherent in human nature; it is found in every line of activity. In our country the people have had so great a respect for judicial office, have been so strong in their determination to keep the courts free from corruption as a matter of pride, that the men nominated for important judicial offices have almost invariably been men of considerable ability, of high char-

acter, and usually of a judicial temperament. Of course exceptions will be found.

Moreover, there is so strong a tradition in favor of impartiality on the part of the judges that many a man who, as a practising lawyer, has been looked upon as partisan in nature, even perhaps corrupt under certain circumstances, when he becomes a judge, stands to his duty, respecting himself, respecting his office.

Usually in this country and in most modern states, the judges have been strongly inclined to conserve the rights and privileges of the common people as opposed to the executive or to the legislature, which at times seem inclined to encroach upon the rights of the people. On that account the judges have usually in both ancient and modern times enjoyed special honor and respect from the citizens as upholders of right and justice. It is, therefore, considering these facts, — and I think the facts are undeniable, — natural that we should expect that in times of peace our judges will find their influence strengthened as compared with the power of the executive and of the legislature. In times of emergency, such as that of war, the executive has the opportunity, as has been said, to strengthen his power at the expense of the courts and of the legislature. But in times of peace, as the course of events normally move, the courts in their power of interpreting the law, overruling the legislature, controlling the executive, become the conservators of the rights of the people, and the people seeing that their power is strengthened by the judges, often make it evident that in times of peace they hold the courts to be the most trusted if not the most powerful branch of government.

IX

CONSTITUTIONS

HERETOFORE we have discussed the various departments of the government and the functions performed by those departments. Now we shall attempt to bring together in a discussion of constitutions some of the fundamental principles that underlie the governments of all free countries.

I was much interested in receiving the other day from a friend of mine a copy of the constitution of our new state of Oklahoma. The first fact that impressed me as I turned over the leaves was that the constitution proper, aside from the other material printed with it, contained 96 pages. One might perhaps go further and put in with the constitution some other matter so as to include 175 pages; but the constitution, strictly speaking, contained 96 pages of closely printed matter.

I next turned to the Constitution of the United States, and found that so far as I could estimate, it contained about 14 pages of the same size. I think that one ought not to assume that Oklahoma is that much more important than the United States, but these facts do show, at any rate, that in later days people have thought it wise to put more matter into the constitutions. I then turned to the constitution of the state of California, adopted 1875, and found it contained 55 pages, and that of South Carolina, adopted 1895, contained 46.

It is doubtless a fair observation to make that as time

has passed the constitutions of new states and the amendments and revisions of the older states have greatly increased in length. The constitutions have also very decidedly changed in character and now include many subjects left out of the Constitution of the United States because our forefathers who made that Constitution thought that it should include only the laws that were absolutely fundamental, whereas the makers of our new constitutions, under the influence of popular feeling, feel that in the constitution should be placed many provisions that have the nature of ordinary legislation. They do not trust their legislatures.

Let us consider what we mean by a constitution, and see if we can get some definite idea of what one should contain. Of course, we all know that besides written constitutions we may have a constitution based simply upon customs, decrees of the courts, or mere understandings of the people; and we may properly say that all countries that have anything like a permanent form of government have constitutions in some form or other. Anything in Great Britain that is "unconstitutional" means anything that is contrary to the laws that the English people have come to agree upon as those of the greatest importance in their social and political life; while anything in the United States that is unconstitutional is something in conflict with the written Constitution. The difference is very important. Nevertheless, if we analyze these constitutions and find out what we mean by them, we shall see that the English Constitution and that of the United States are practically the same as regards their contents. Frequently we say that the constitution is the fundamental law of the country; then when we attempt to analyze what is really funda-

mental in the political life of the people, we find that these things do not agree with some provisions of some written constitutions.

Professor Jesse Macy in his studies of the English Constitution defines the word "constitution" in this way (you will notice that he carefully avoids the use of any synonymous noun), "A constitution is *that whereby* the instrumentalities and powers of government are distributed and harmonized." There is simply the one fact, the constitution tells the way in which the government is organized and exercises its powers. I suppose we might say that in a savage tribe which has a chief, a man who regularly exercises the executive power and determines what are the customs of the ancestors of the tribe, and himself acts in accordance with these customs and compels the obedience of his people to these customs, there is a constitution.

Professor John W. Burgess, who perhaps has done more than any other American writer to make clear the principles of politics from the legal and constitutional side, says that a complete constitution consists of three fundamental parts—some other writers would add a fourth:¹ First, the organization of the state for the accomplishment of future changes in the constitution. That is to say, an organization should be so planned that the fundamental laws may as the years go by adapt themselves to succeeding changes of political and social conditions. In his plan there must be some way prescribed to change the written constitution, and a power must be given to certain groups of people in the community to bring about these changes. Without this adaptation of the constitution to the growing needs of the people at every step of progress, we should

¹ "Political Science and Comparative Constitutional Law," I, 137 ff.

have, instead of ordinary changes, a serious revolution. Otherwise there could be no change; the state would stagnate. So he insists that one of the important parts of a written constitution is its organization for the accomplishment of future changes or amendments.

A little while ago the president of Chicago University gave an address in which, speaking on a similar topic, he said that we should recognize that in every state there are two conceptions that ought to be kept in mind. One is the social conception of the people of the state that includes every one in the state; the other is the practical conception, meaning by this the group of people in the state that have the right to pass upon a constitution, to make a new constitution, or to amend an old one. In our country this practical conception would mean the body of voters. According to that view we should need to prescribe in every constitution provisions to carry out this idea of the composition of the political society. In other words, we should name the people who have the right to propose amendments, to make amendments or pass upon them, or to make a new constitution. Perhaps we might go still farther and prescribe the manner in which the political society must act in order to change the form of the constitution.

In the second place, according to Professor Burgess, there must be in every constitution a "constitution of liberty." This means that provision must be made to protect the liberties of the people against possible encroachment of either the government or private individuals. In any state properly organized, it must be clearly understood what the rights of each individual are as opposed to any action of the government if that tries to go beyond

its prescribed powers, and also what are the rights of each individual against aggressive action on the part of his fellow-citizens. Whenever, therefore, in a written constitution we find a declaration of rights, that simply means that certain liberties are guaranteed to the individual, and that the government must not infringe upon those liberties.

The constitution itself will clearly define, of course, just what these liberties are. We may perhaps find states in which there are no formal guarantees to the people of their rights and liberties; but they may still exist through custom. In the case of a theoretically absolute monarchy, the individual citizens have no rights as against the sovereign; his will is law. If he chooses to take away the liberty of any individual, he may. But under a constitution which guarantees rights to the people that cannot be done. Beyond a written constitution, beyond the will of a sovereign, we shall always find implicit in the customs of the people some beliefs which protect them within certain limits against their government. If their government steps beyond these limits, a revolution is bound to come. In analyzing a constitution, then, it is important to bear in mind that all states that make any pretense towards popular government give to their people some degree of constitutional liberty, and even if the constitution does not define exactly what those liberties are, they nevertheless are understood by the people; custom has determined them.

The third part of a constitution is what Professor Burgess names the "constitution of government"; that is to say, the form in which the different departments of government are organized. The word "constitution" itself really means the way in which the people stand together organized to do their work. That is the part of

the constitution that ordinarily most clearly appears. It need not tell the way in which the legislature shall organize, or the executive perform its functions, or the judiciary be selected: but it must either specifically or through custom and understanding, determine the organization and powers of each one of the departments of the government and prescribe its main functions. We may sum the matter up then by saying that a constitution ordinarily prescribes the way in which it should be changed whenever that becomes necessary, it enumerates the liberties of the people, it prescribes the form of organization of the government, and ordinarily it names the ways in which the government shall exercise its various powers and functions.

Some writers go further and say that every constitution must contain an enacting clause in some form, but this can be clearly understood. Any constitution-making power will see to it that its provisions have the force of law.

Especially on our great political holidays, or at the times of our political campaigns, we frequently read or hear statements regarding the sacredness of our Constitution that would seem to imply that it is a fetish to be worshiped, or a sacred book, and not an ordinary document and law.

Some persons seem to imply in their statements that it is unpatriotic for any citizen of the United States to criticize the Constitution. That is clearly a wrong conception. Our states have come together in a society. The Constitution is simply a clear definite statement of the most important law, the fundamental law. This law may be changed; it ought to be changed from time to time, because the conditions under which we live will

change. We should then keep this conception of the Constitution in mind, that it is simply a clear statement of the most important, most fundamental laws; and it is to be studied and criticized and discussed as are other laws.

We should also bear in mind the fact that it makes little difference whether the constitution is a formal written document as in the United States, or simply certain general statutes like Magna Charta, the Bill of Rights, the Reform Act of 1832, and others, as in Great Britain. In either case the constitution is reasonably understood, and in either case we may speak of legislation as constitutional or unconstitutional.

You cannot tell exactly, without careful consideration of the statutes, what acts are really fundamental in their nature. You must search and find fifteen or twenty statutes that, taken together, make up on the whole the English Constitution, but most of them will contain also certain extraneous matters that are not constitutional. Then aside from these statutes, aside from the court decisions even, we shall find many customs that perhaps are not formally mentioned at all. Nevertheless, they have become so ingrained into the political habits of the people that they really form a part of the English Constitution. Possibly they are simply crude understandings, nevertheless they are firmly based. For example, the custom now nearly a century old of having the British Cabinet, whenever it is defeated in the House of Commons on an important measure, resign in a body or else dissolve the House and call for a new election, is part of the British Constitution. It is not prescribed by statute, but it is so embedded in the British political mind that no one would

think of acting otherwise. It is at the present day practically as much a part of the Constitution of Great Britain as is the Magna Charta itself.

In Great Britain we say that the Constitution may be amended by statute. Any act that the British Parliament passes is legal, and if Parliament is willing to pass an act fundamental in its nature and accepted by the people, that is an amendment to the Constitution. But it would be no more of an amendment to the British Constitution to pass an act now determining what the composition of the Cabinet should be, or the times it should resign, or the way in which it should do its work, than has been brought about in practice from the custom of the Cabinet for decades. If a statute is passed, we should have something specific and prescribed, but it would simply put in definite legal form something that has long existed. It is the existence of the custom that has made it a part of the Constitution even before it is put into law.

In the United States, and in most modern countries that have written constitutions, they are usually adopted and promulgated by some body different from the legislature. This is probably desirable, because we get accustomed to our legislatures and often we lose interest in them simply because we are accustomed to them. If we are to make a change in our laws which we believe to be absolutely fundamental in its nature, it is wise, therefore, to ask some body especially elected for the purpose to act in connection with that change. Moreover, it is usually desirable before the change is made to have its provisions submitted to the people for ratification. In other countries, where the people are less active in governmental affairs, the constitution is sometimes prepared and promulgated by a statesman, a

king, or emperor, himself an officer of the sovereign power in that state.

It is interesting to note the way in which these constitution-making bodies of officials speak of themselves and the way in which they present their enacting clause. The preamble of the Constitution of the United States begins, "We the people of the United States [I will not comment here on the meaning of the word "people"] in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." Some writers of constitutional law call attention to the fact that many constitution-making bodies go further and not only mention the purpose and the people who obtain the constitution, but also generally recognize the hand of Providence in the making of the state, either because such recognition is a survival of the old times and a practically universal belief in the divine origin of the state, or because the people are really reverent and thinking of the divine help that they believe is given them.

Note the Constitution of the state of Oklahoma, "We, the people of the State of Oklahoma, grateful to Almighty God for our freedom, and in order to secure and perpetuate its blessings, do establish this constitution." Quite different is the Constitution of Japan, or that of Prussia. In the first paragraph of the Constitution of Japan we read: "Having, by virtue of the glories of Our Ancestors, ascended the throne of a lineal succession unbroken for ages eternal; desiring to promote the welfare of, and to give development to, the moral and intellectual faculties of Our beloved sub-

jects, the very same that have been favored with the benevolent care and affectionate vigilance of our Ancestors; and hoping to maintain the prosperity of the state, in concert with Our people and with their support, We hereby promulgate, in pursuance of Our Imperial rescript of the 12th day of the 10th month of the 14th year of Meiji, a fundamental law of state, to exhibit the principles, by which We are to be guided in Our conduct, and to point out to what Our descendants and Our subjects and their descendants are forever to conform.

“The rights of sovereignty of the state, We have inherited from Our Ancestors, and We shall bequeath them to Our descendants. Neither We nor they shall in future fail to assert them, in accordance with the provisions of the Constitution hereby granted.”

You will notice that this is really little different in substance from the other constitutions. In both cases there is a statement that the body believes it has authority to act, a statement of the purposes for which the constitution is made, and a statement of authority. In the Constitution of the Empire of Japan, there is also a recognition of the power of effecting changes, more particularly in connection with the promulgation of the Constitution. The Constitution of Japan can be changed by the Emperor in accordance with the provisions of the Constitution itself.

In our study of the judiciary, we note the difficulty of avoiding ambiguities in law. The difficulty is no less here. What, for example, do we mean by the statement, “We the people of the United States”? If our Constitution were passed upon by all of the people that constitute the social state which has been mentioned, we should have one meaning of the phrase “people of the United States.” If the

Constitution is passed upon by only those people that are counted in the political state mentioned, we find another meaning of the term "people of the United States." Both meanings are in common use. When, however, we examine the Constitution of the United States itself so as to find out the way it may be amended, we find that the word "people" has a third meaning still different.

In the beginning of the article providing for amendments of the Constitution, we find that Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments, or on the application to the legislature of two-thirds of the several states, shall call a convention for proposing amendments. In either case these amendments shall be valid when ratified by the legislatures of three-fourths of the several states, or by convention in three-fourths thereof, as one or the other mode of ratification may be proposed by Congress.

We find here a provision made that the people of three-fourths of the states must act, not as a unit, but in groups, each state by itself, either through their legislatures or through conventions. The term "The people of the United States," therefore, is used in a sense entirely different from its ordinary use. The vote of Nevada, for example, would count the same as that of New York, even though the number of people in New York is vastly greater. Our great constitutional conflicts have usually turned merely upon the interpretation of a few words in our Constitution. We can, therefore, not be too careful in avoiding misunderstandings.

Even in the countries that have written constitutions, we must find the complete constitution in part in court decisions, in customs, and in the understanding of the

people. Possibly we must go even further and say that the constitution is found in part in other political and social institutions, as, for example, the church or family. In Russia, the power that rests in the church is constitutional in its nature. In our own country we find that political parties have become so deeply fixed in our political structure that they affect our civil liberty, and consequently they make informally a part of our Constitution.

Our Constitution has prescribed the way in which the President of the United States shall be elected. It is not going beyond the facts, however, to say that in reality the change of custom of the election of the President, brought about by the action of political parties, has amended the Constitution of the United States, even though its words remain unchanged.

A short time ago a member of the Republican National Committee, in speaking of the determination of the place for the next Republican convention, mentioned certain statutes which provided methods of election of delegates to the National convention. He added that the feeling in the convention was general that the way in which delegates should be chosen was something with which the statutes of the United States or those of the individual states should have nothing to do; that political parties were purely voluntary organizations and ought not thus to be interfered with by laws. But political parties have become so vital a part of our whole political structure that it is perhaps wise that they be recognized and their actions more or less controlled. If, in fact, the parties have become permanent political institutions, it is no longer proper to say that they are purely voluntary bodies not to be interfered with. It is becoming time that the prescription of

custom shall be recognized in law. When a social custom, or political custom, has become so firmly established that it must be considered in the making of laws or their repealing, it may be asked whether the people ought not to be morally bound by that custom if they wish to be law-abiding citizens, even before a formal law has compelled their action.

Many written constitutions, especially of late years, contain provisions that are not at all in the nature of fundamental laws along the line of the principles that have just been explained, but are rather of the nature of statutes of minor importance which the people from distrust of their legislatures have put into their constitutions. For example, in the Constitution of the state of Illinois we note that no general banking law shall be passed without the referendum. This provision was put in the Constitution soon after one of the great panics wherein the people had been injured by the policies of the banks. The result has been, however, that for decades that state was not able to get a good savings bank law such as exists in most of the Eastern states, because such a savings bank law needed to be passed upon by the people and they did not know and were not likely to take the proper time and interest to study the details of a good savings bank act. The one or two acts that have been proposed and submitted to the people by the legislature have been voted down, because they did not understand the subject and imagined it was some attack upon the banking laws and that they had better not be tampered with.

Of a somewhat similar nature is a provision in the last Constitution of the state of New York in reference to forests. The result has been that there can be no scientific

management of the public forests of the state of New York without an amendment to the Constitution. We have probably condemned ourselves for a series of decades to the misuse of our forests.

In many constitutions, and there are many examples of a similar nature, there is a provision for a general property tax and practically for no other. By this provision the people have secured an unscientific system of taxation and have made it unnecessarily difficult to secure a good system. As has already been said in our discussion of the work of the legislature and of the executive, detailed laws covering the questions of taxation, banking, tariff, or anything of that nature, demand very careful study and discussion by experts. When constitutions can be amended only by reference to the people, they should not contain measures of such a nature that they cannot receive fair and careful discussion, and yet many of our constitutions contain such provisions.

In the new Constitution of Oklahoma, and there are similar provisions in the Constitutions of California and other states, it is made imperative for the legislature to provide for a uniform system of text-books for the common schools of the state. California provides that the books shall be printed by the state, distributed by the state, and not be changed oftener than once in four years. We are all in sympathy with our educational work, we all wish that the best text-books be secured; but provisions of that kind in a constitution simply prevent the recognition of changing conditions, so that they practically refuse to the children in many cases the use of the best text-books. Such matters are properly the subject of legislation; they are not constitutional in nature.

Again, we find a provision that the legislature shall

provide for the study of agriculture, horticulture, stock, and the domestic sciences in the common schools of the states. The subjects are excellent; they should be studied; but such restrictions should not be placed in the constitution. Circumstances may change in such a way that you may wish to modify the mode of study decidedly or add much to the provision. If the constitution prescribes them, changes are difficult.

The sum of the whole matter then is this: we ought not to put into a constitution measures of general legislation that are so complicated in their nature that they cannot well be understood and thoroughly discussed by the people before they pass upon them; nor, should we put into constitutions matters that are likely to require frequent change.

When, however, we are speaking of laws that are really fundamental, we are usually speaking of those that the people can well understand. They know, for example, whether the right and power should be given to the government to quarter troops upon the people, whether an executive officer or judicial officer should be given the right to search a private house without a specific order from a court, whether they wish frequent elections of members of the legislature. Such matters the people can wisely pass upon, and we may be sure that upon some such questions they are ready to fight if necessary to carry those provisions into effect. Laws of that kind will have the people back of them.

We have already seen, however, in other connections, that laws which do not have the understanding and support of the people will not be enforced. We have said that laws of no value, or laws that are not enforceable, ought not to be on the statute books. How much more emphatic should

the statement be that such provisions ought not to be in the constitution.

The fundamental laws really constitutional in their nature need to change only a very little as the decades go by, practically not at all. The nature of human liberties, the form of the organization of the government, the main provisions of the suffrage, or the most general functions of the different departments of the government,—these are fundamental matters which touch the state and are not likely to be often changed. If we put only fundamental laws into the constitution, we shall secure a constitution that will require amendment only rarely. Most of the changes needed to meet the shifting conditions of the country, if the constitution is of the right type, may be made by perfectly proper decisions of the courts. Only when amendments of a somewhat sweeping nature are required, such as, for example, the abolition of slavery, shall we need a constitutional change. Under circumstances of that kind there will be enough of a change in the sentiment of the people to demand a modification of the constitution, and the amendment can then easily enough be made.

In summary then we may say, that to secure a constitution that will not be unwise, or one subject to continual amendment, we must put into it only essential, fundamental things. The student of constitutions, written as well as unwritten, who wishes to understand those constitutions in spirit as well as in letter, must study not merely the text of the constitution, the old law books, and the decisions of the courts, but also the customs, the social and political institutions, the whole civic structure by which the judgments of the courts are swayed and by which the lives of the people are controlled.

X

INTERNATIONAL RELATIONS

So far in our studies we have discussed the principles of politics as we find them developed in practical life within our own country and in others similarly situated. In the concluding chapter, we shall direct our vision outward, considering first the question of the expansion of our country beyond its former limits, a process which has affected our international relations, and beyond that, the principles of our politics in matters international.

The United States Government from its foundation has occupied a very influential and a very advanced position in the history of international law. Possibly no other country has done more to promote justice in international relations, to lessen the horrors of war, and especially to adopt means for the prevention of war.

At the beginning of our Government Washington endeavored to secure for us the best methods of keeping peace with other nations, and laid down the principle of avoiding entangling alliances with Europe, simply because such alliances would inevitably sometimes draw us into war. Of course, besides the general policy that we have followed to avoid complications arising in Europe, our geographical situation has been most helpful. Separated as we are from Europe by an ocean, we need not fear invasion by any European country. The isolation that has protected us has made alliances unnecessary and has enabled us to save the expense of a great standing army.

Almost from the foundation of our Government, however, we note that our forefathers felt, as practically all other strong peoples have felt, the necessity of expansion. That is a perfectly natural ambition. In most cases we may criticize the methods followed by nations in their expansion, but it is practically inevitable that an ambitious people will take steps in that direction. At first our forefathers were simply a small band of settlers on the Atlantic coast, but it was inevitable that they should press out into the territory of the Indians and at the expense of the Indians. In some instances the treaties made were just, in many instances they were unjust. But just or unjust, it was inevitable that with the instincts that our forefathers had, the time would come when they should see that they needed more territory and when they would take it.

People with the keenest conception of justice have never questioned the fact that the whites of America were going to take the land of the Indians. The only question of dispute has been the way in which they take it. We shall all agree that the proper method was to buy these lands or to secure them by some other peaceful contract with the Indians. But so far as I am aware, no writer competent to speak has ever suggested that it would be expected that our people would permit the Indians to say that they would not let us have the lands. They realized that we must have them; it was simply a question of how we got them.

The question came up again in a somewhat different way at the time of the French and Indian War. The British were settled on the Atlantic coast south of Canada. The French had been extending their rule not only across the northern border of the British, but west through the western

part of New York and then south close behind the Alleghany range. There can be little doubt that if the British had not resisted and pushed forward into the territory claimed by the French, they would have found themselves practically limited to the Atlantic seaboard. The British population were growing and energetic, and they were determined to have what would be expected of such a type of settlers. The French and Indian War was practically as inevitable under the circumstances as was the last Russo-Japanese War, or that between the Northern and Southern States. When the problem of slavery arose in America with interests strong on both sides, and with no likelihood of either section giving way, the only question was, whether some way could be found by which the interests of both could be conserved without war. Such a solution would have been better; it was hardly to be expected.

In many cases when a country wishes to expand its territory, the geographical conditions are such that war is inevitable. Two years before the Russo-Japanese War, in a conversation held with one of the leading men of Japan, he said in substance:—

“We shall have war with Russia; I do not doubt it. I wish there were some way to avoid it, but I see none. The only question is, when.” Then, in order to emphasize the situation and clinch his argument, he took a map, showed the geographical situation, and continued: “Russia has Manchuria and has the ambition to control Corea. We cannot permit her to have Corea; our very national existence is at stake. On the other hand, if we control the strait between Corea and Japan, that will cut off the Russian port of Vladivostock from Port Arthur and will make it impossible for the Russians to have free commerce between those

ports and the freedom of sending their warships from one port to the other. That they will feel they must have. In consequence, without the slightest spirit of unfriendliness towards Russia, war between Russia and Japan is inevitable from the geographical situation."

It was a question of expansion. Russia was occupying Manchuria; she wanted and intended to have an open port on the Pacific. Japan could not permit Russia to expand in that way without endangering her own existence. Japan, too, had intended to expand into Corea, and Russia could not occupy the same territory. War had to come.

Similar reasoning explains the French and Indian War as has been intimated. The French had determined to hold the territory that the British felt they must have. It was simply a question of which side could win.

After the French and Indian War and the foundation of the United States, the country felt in the same way the necessity of going still further, and the Louisiana purchase was made. No person was ever more bitterly opposed towards stretching the Constitution than Jefferson was. Nevertheless, he felt we must have the western territory; that the welfare of the country demanded it.

The feeling was the same when we acquired Texas and California; it was perfectly natural that we should have them both. Everyone feels now that these territories had to be secured in some way or other. Many object to the way in which we secured Texas. The methods of our Government seem wrong to many of us, but in practical politics we must deal with human nature as it is. We may be perfectly sure that the United States would have that territory. It was simply a question of the method of acquiring it. We quite possibly made a mistake in the method for

which we have paid a penalty in the subtle form of a weakening of moral fiber.

The question of what constitutes right and wrong in the acquirement of territory is a subject still open to debate and one regarding which it is difficult to reach a conclusion. Some persons say the earth belongs to those who can make the best use of it, and thus justify the seizure of territory occupied by others, claiming that those that take it are the ones to make the best use of it. In that way they justify our taking land from the Indians; the seizure of territory from the French, because the British were better adapted to promote civilization. The French have a different view, thinking they are better adapted to promote civilization. To them French civilization is the best. The argument is one that is usually not stated so absolutely as I have stated it, but it is an argument still felt and a point made by statesmen very generally when it comes to a question of practical politics regarding the extending of territory — the earth belongs to those who make the best use of it.

The nation that does the work of expansion, the one that is strongest for the time being, feels that it can make better use of its opportunities than can the weaker nation that must yield. Moreover, we must recognize a certain element of truth in that point of view. The statement cannot be made absolutely, but other things being equal, it is likely to be true that the stronger nation is the one that probably will make the greater advance in civilization and probably will make the greater advance in any territory that it takes. There are exceptions, but generally speaking, the nation with the greatest power is likely to be the one with the best means, and perhaps the strongest ambition to advance civilization from the modern point of view.

Of course, we know perfectly well that the Chinese consider their form of civilization better than ours, but until China secures more power she is not likely to make good her claim, however well founded in certain directions it may be. Many people believe that Ancient Greece had the highest type of civilization ever known in history, and the fact that Greece fell under the control of Rome is thought no sign that the Romans were the better nation. They think it a misfortune to the world at large that Greece was conquered by Rome. But on the whole, we shall probably find it true that the powerful nation, the conquerors, have been the most progressive; and that in consequence, if we grant the principle laid down before, there is some justification for the success of the stronger.

Whatever our view, however, of the methods of nations, it is a fact that those which have the tendency to expand place no limitation upon that tendency except that imposed by the resisting force of another nation, usually one of much the same type of civilization.

Out of this trend towards expansion and the desire to protect our free government and our methods of politics as well as our freedom from the need of great armaments, or alliances with Europe if the European system were brought to the Western Continent, grew the Monroe Doctrine. Practically stated, that doctrine is this, that the Western Continent is not open to further occupation by European powers and that we shall not permit any European power to take back or secure any of the South American states that have obtained their independence. We feel that it is safer for us to avoid all alliances as well as quarrels that would almost certainly come if any more strong European powers established themselves on this continent. We

believe we can accomplish this result most easily by preventing them from coming. If all the peoples on this continent have practically the same form of republican government, they are much less likely to get into trouble than if a European power with monarchical tendencies should come here. That is our justification for the doctrine.

The Monroe Doctrine has been generally accepted by our different political parties with comparatively little discussion. Two of the most striking instances in which it has been enforced are, in Mexico shortly after the close of the Civil War under a Republican administration, and again in the Venezuela controversy with Great Britain under President Cleveland, a Democratic administration. The parties agree substantially regarding their interpretation of the doctrine. It is upheld, that we may keep out of trouble.

Out of our war with Spain came new troubles of international significance different from any we had had before, and much more important than a mere acquisition of territory. It is not desirable here to go into a discussion of the causes of the war with Spain or our methods of dealing with that country. The war came; the result has been new problems.

The problem in connection with Cuba we need not dwell upon. It will probably be several years before we know the result of our policy there. So far, our action seems to have been one of the most disinterested of history. Whether it will prove so ultimately, we cannot yet tell.

It will be interesting to note the opinion of some influential Cubans upon that point. About the time that Cuba was framing its first constitution, an influential member of the revolutionary party came to New York to discuss

with some of the Cuban sympathizers the question of the form of government. In reply to a question asked as to what the Cubans expected ultimately and what their final wish regarding their country was, this man, one of the leading Cuban patriots, said in substance: "Ultimately, I think, we shall have our country annexed to the United States. Judging from our past history, we shall want to go into the United States." Then he added, "In the meantime, we wish to go ahead independently. We have been saying for many years that we will govern ourselves. We have been fighting for ten years in order that we may govern ourselves. We want to show the world that we can govern ourselves. But as soon as that has been clearly shown, I believe that it will be better for our people that we should come into the United States." That was his view at that time. I am not sure that historical events will show that he has been right throughout.

In the acquirement of the Philippines there came under our jurisdiction a type of people different in race, in civilization, in methods of government, and in political and social habits, so that we found upon our hands a new and very complicated problem. In our administration of the Philippines so far, we have set an example to the world, good or bad. We are trying to make the Filipinos fit for self-government by dealing justly with them, educating them, giving them an opportunity of practising self-government, first locally and then in their central government. No other nation has ever attempted an experiment of that kind to anything like the same extent. The nearest approach that we see is the experiment Great Britain has been making in Egypt within the last few years. So long as Lord Cromer was in charge of the administration, with the consent of Great

Britain, he was trying to develop the individual Egyptian so that he might be successful in government, perhaps ultimately be able to govern himself. But his plan was not so direct as is our policy in the Philippines, nor was it on so large a scale. Whether ultimately this educational training in self-government will lead the Filipinos to become independent, or to control merely their own local affairs independently as do our states, while remaining absolutely under the control of the United States in the central and international affairs — which of these two courses will most nearly secure justice and the best result for the world, only the future can settle. There can be little doubt that whenever in the course of time they become fit for self-government, they will have it to whatever extent they desire it. You will recall that the Cuban patriot said that the Cubans wanted to show the world that they could govern themselves, but that they did not wish ultimately to do so. It is quite possible that the Filipinos will have a similar feeling.

The effect of our work in the Philippines has an international bearing in other ways. Our course of action there is felt strongly in other countries that have dependencies among peoples of different races. Not long ago one of our prominent officials in the Philippines, who had come back to the United States on leave, said that he had been questioned by the English and Dutch regarding our work in the Philippines. Earlier they were disposed to laugh at our policies as simply an experiment of Americans who had no experience; but now they had heard so much of the progress of our educational work that they were eager to learn more, particularly since the natives in India and Java wanted their government to do for them what the

United States were doing for the Filipinos. The English and Dutch were finding it worth their while, therefore, to examine our work and see if they could not learn something from us, as earlier they thought we ought to learn from them.

There is no doubt that the experience of Great Britain, and that of other countries with dependencies, have been of decided benefit to us as comparative studies. But we have been somewhat daring and have gone farther than they in certain ways, and it is possible that they ultimately may learn from us.

The United States is also to be credited with much influence in changing diplomatic methods during the last hundred years. In the days of Machiavelli, and even down to the time of the French Revolution, it was looked upon as a chief accomplishment of a successful diplomat that he could lie smoothly and successfully. It was his business to conceal the purposes of his own government and to deceive the government to which he was accredited. He was to learn all he could, by fair means or foul, in reference to the intentions of the court at which he resided, and he was to prevent that government from finding out anything about his own country. That spirit has not entirely gone; it will probably long remain. Nevertheless, there has been a decided advance along that line. Perhaps the United States should be given credit more than any other country for this change and for adopting the practice of carrying on our international relations in a way that is against the earlier proverbial training.

A strong, ambitious people is bound to extend its territory unless prevented by other nations of substantially the same type and strength. It is regrettable, but a fact, that to carry out these plans, things will be done that cannot be

justified from a moral point of view, if in political questions, and especially in international questions, the test is to be that of private morals. An individual who lies for his own sake in private business, we all despise, but men in public life sometimes feel that they are justified in deceiving, and they put their argument in this way: —

They cite as an example the practice of war. They say that whenever opposing armies stand face to face, it is the duty of the commander on either side to mislead his opponent; otherwise, it is likely to cost hundreds and thousands of lives and probably insure the success of the opponent. Deception in war, they say, is not merely excusable, but right and praiseworthy.

Then they question whether it is not true that in other dealings between nations throughout the world, we should seek to accomplish what is best for our own country and to do that in the way that is least cruel and objectionable. If a diplomat, they say, by misleading the other country, by lying deliberately, can secure his ends, how much better this than going to war. Surely lying is a less serious crime than murder; surely a lying diplomacy is more laudable than a declaration of war! If the end is to be accomplished, is it not better to take the lesser evil? That is the line of argument generally followed.

The American policy has been generally frank and truthful, but there are comparatively few statesmen that do not at times adopt a policy not altogether frank. Even some writers on politics speak about as plainly as I have done. International practice at the present time, while much more truthful than it used to be, still employs a great deal of deception in many things. The excuse for it is that the ruler does what he considers best for the welfare

of his own country. He will resort to falsehood if by so doing he can protect his people better than by telling the truth and perhaps incurring the risk of war.

The remedy for this state of affairs is practically the same as in private life. Until we had stable governments, if an enemy injured us, there was no court to appeal to. We defended ourselves until we had a police force that made our lives safe. As long as each man had to protect his own life, he felt entirely justified in lying in order to save his life. The same argument is still used in international affairs; it is a choice of the lesser evil. We have now come to a position where we consider it dishonorable to do such things in our private life, because we do not need to; we appeal to the courts as an arbiter to settle disputes.

Whenever in international affairs we shall find an arbiter that can settle disputes between nations and do justice, diplomatic lying will also disappear. The tendency towards the disappearance of that custom strengthens with the tendency towards perpetual peace.

A number of forces are acting together to strengthen this tendency. In the first place, there is the enormous cost of armies. Something like six millions of people are in arms in Europe, all withdrawn from industrial pursuits and supported in idleness as a burden upon the community at large. It is probably a low estimate that Europe is expending regularly from six to seven billions of dollars a year simply on standing armies. Nevertheless, the conditions are such that this expenditure must be met. If any of the large European nations should abandon its army, its existence would be in danger. There can be no reduction in armed force until there is united action, and that is not yet possible. Not simply the expense of the standing army in

time of peace, but the destruction in time of war likewise makes every nation hesitate to run the risk of war.

Again, the economic competition of nations one with another is tending in the same direction. Whenever the people in European countries feel strongly enough that the burden of their standing armies puts them at too serious a disadvantage with the United States in the world's markets, they will try and find some way to reduce their armaments. In reality that was the argument of the Czar in calling the Hague Conference, and every statesman recognizes the force of it.

A movement in the same direction is seen in the business alliances and the interrelations of business men. Commerce knows no national boundaries; and when business interests become so involved and intricate that the more important business men in the community feel they cannot afford to have war, their influence will be very great towards preventing it. Many people — I am one of them — were little alarmed last year over the talk of war between the United States and Japan. Neither country wanted war to begin with. There was no sufficient cause for war in the minds of the men controlling the country. But besides that, the business men of the world who had money to loan would not have been disposed to permit a war. Japan could not have entered upon a war of that nature without large loans. Few people would have been willing to loan her money at that time to fight the United States. There would have been too much risk.

For the last century there have been other influences of importance tending to lessen the likelihood of war. The Roman Catholic church, one of the most wonderful organizations that civilized nations have ever seen, has ramifications

in all civilized countries, and the unifying force of a group of men so intelligent, so well controlled, so wisely guided as are the rulers from top to bottom of the Roman Catholic church, has a powerful tendency leading towards peace.

The growth of great states has a like influence. Great Britain was first a group of little independent communities continually fighting with one another; when it became one nation, war ceased. The same is true with France, Italy, and Russia.

In connection with the United States and Germany, there is another idea of great importance, that of federation. The United States could never have been a single state made by conquest. It was made into a federation out of thirteen different states, each of which gave up some powers that should be common to all, while retaining most of the powers that affected its local affairs, and that after all touched most closely the daily lives of the people.

Under this idea of federation, in which a state retains its autonomy in local affairs and gives up its powers only in matters common to all, the United States was formed, and that form of organization and that idea soon became popular. Germany was organized on that basis; Canada, Australia, and South Africa have been so organized, and even to some extent the same idea is bringing together the entire British Empire. If the different colonies of England come together into a Greater Britain, it will be through a federation in which each one will have its separate rights of government recognized.

In the interests of peace likewise there have been strong alliances. In the time succeeding Napoleon, the Holy Alliance tended to prevent quarrels. We have had the Concert of Powers; five or six of the leading nations of

Europe have several times acted in matters of common interest. Near the close of the Greco-Turkish War they insisted that peace be made. So it is in many instances that have come up. Concerted action among leading states may practically determine peace instead of war.

The principle of arbitration, for which the United States again has probably done most, at first in the settlement of the Alabama claims after the Civil War, is accomplishing much. We might possibly have accomplished greater immediate results at the time provision was made for the settlement of the Alabama claims by accepting an offer of federation and annexing Canada, an opportunity that we unwisely let escape. But the example of arbitration has gone farther and nations are now making special treaties to submit all questions to arbitration instead of leaving their settlement to the arbitrament of war.

The right of intervention for the sake of humanity is coming to be recognized somewhat more than earlier. Even in the late Russo-Japanese War there was a general agreement to restrict the field of operations. All such steps are in the direction of peace.

As a result of the first Hague Conference a general court was established in the Hague Tribunal, and in many instances its efficiency has already been shown. The right of intervention in the settlement of disputes, such as that between Russia and England over the North Sea trouble, and incidents in the Russo-Japanese War, show how far-reaching this may become. Without that intervention, it seemed practically certain that Russia and Great Britain must fight. This international court may be said to be well enough established now, so that we may be sure it will settle in the future a large proportion of international disputes.

But beyond the settlement of disputes in international matters, a general congress is needed to provide in advance rules concerning international affairs. In the federation of our different colonies into the United States, we established not only a tribunal but also a congress to make laws on matters of general interest, and we established an executive to enforce these laws. The last Hague Conference adjourned with an agreement that it should meet again. This was another step towards the establishment of a general international congress that shall meet regularly from time to time to consider international questions that otherwise may become the subject of international dispute, and thus to provide in advance for the settlement of the most important questions of world interest.

Ten years ago the hope of perpetual peace seemed a kind of millennial vision. The events of the last ten years have brought it immeasurably nearer, largely on account of the two Hague Conferences, the one establishing a tribunal, the second taking the first step towards a general international congress. Whenever this general congress begins to meet regularly, the most difficult and the most important step will have been taken towards a world federation. The world federation will preserve the educative democratic principle of training practically every man in politics by giving him an opportunity of taking part in the management of local affairs in the community in which he may live, while it will also establish a world-embracing federal congress to make such provision for the control of international affairs that it will ultimately secure perpetual peace.

INDEX

- Absolute monarchy, An, 42
Act, Significance of court declaring an, unconstitutional, 135-37; courts in no other country have such power, 137-38
Acts, Very few, committed, without doer first excusing himself, 26
Administration, 110-28; the chief executive, 110-17; subordinates, 117-20, 124-26; work of, like that of a great corporation, 120; the President's Cabinet, 121-22; clerical positions and the civil service, 122-24; centralization in, 126-27; responsibility of branches of, 127; private enterprise and public control, 127-28
Administrative courts, Special, in Europe, 140-41
Aerial navigation and the Interstate Commerce Law, 133
Age qualification of voters, 47
Alabama claims settled by arbitration, 174
Alliances, Foreign, unnecessary for the U.S., 160, 165
Alliances, Strong, in the interests of peace, 173-74
American citizen, The ideal of the, 4-5
American people, A Swiss banker's opinion of the, 138
Anglo-Saxon race, Institutions of the, not adapted to the Orient, 19
Anti-suffragists, Argument of the, 54
Arbitration, The principle of, 174-75
Aristocracy, An, 42
Armies, Enormous cost of, 171-72
Army officers on the canteen in the army, 100-1
Athenian statesmen, Pericles on the ideal of the, 3
Australia organized through federation, 173
Austria, Woman suffrage in, 54; class representation in, 82
Ballot reform the result of change in public opinion, 94
Belgium, Proportional representation in, 84, 85, 87
Bismarck inspired personal devotion, 37; directed vote of government officials, 53
Blaine, James G., a magnetic leader, 37
Boss, Influence of the, 23; controlled by public sentiment, 25; animated by selfishness, 29; gets his power from the inertia of voters, 34
Bribery prevented by proportional representation, 86
British Empire, Federation in the, 173
Brittany, The peasant of, calls upon the state, 6
Brockway, Z. R., on criminals, 26-27
Buchanan, James, Influence of personality of, on the state, 13
Bundesrath, Most important bills introduced in the, 43
Burgess, Prof. John W., on a complete constitution, 146-49
Burke, Edmund, on representation, 77-78
Business, The ruling motives in, the same as in politics, 30; mental inertia or habit in, 34
Business conditions, Judges ignorant of, 134-35
Business interests affect party membership, 67-68; international, make for peace, 172

- Cabinet, The British, 150-51
 Cabinet, The President's, should be made up from his own party, 74, 120; should represent different sections, 121-22
- California, Length of constitution of, 144; text-book provision in, 157; the acquisition of, 163
- Canada, Opportunity for annexing, lost, 174
- Candidates usually selected by leaders, 46; type of, improved, 70; for political offices, 73-74
- Canteen, The, in the army, 100-1
- Caucuses or conventions, 46
- Cavour inspired personal devotion, 37
- Centralization needed in executive department, 126
- Child labor, Restriction of, in North and South, 96-97; action of Congress on, 97
- Children, What the state does for the, 9
- Chinese and Americans, Difference between, 31-32
- Chinese civilization, 165
- Citizens, The most practical improvement of the highest and best powers of the, the ideal, 4-5; what individual, must do, 5; the state exists that the ideal may be realized by its, 9; relations of, to the state, 9-10; subjects of the state, 13-14; action of state towards, dependent on will of, 14-15; and upon conditions of the state, 15-16; must do what the community determines best, 41, 44; have legal rights, 44
- Civil service, Weaknesses in the, 122-23
- Civilization, Different stages and types of, in different countries, 4-5, 19; ancient and high in China, Japan, and India, 32, 165; and expansion, 164-65
- Class, A high and a low, 31
- Class antagonism, 90
- Class representation, 81-84; encouraged by proportional, 90; in the Cabinet, 122
- Clay, Henry, a magnetic leader, 37
- Clerical positions and the civil service, 122-24
- Cleveland, Personality of, 114; enforces Monroe Doctrine, 166
- Coffee, Complicated economics of a cup of, 8-9
- Colorado, Man and wife opposing candidates in, 56; woman suffrage in, 57
- Combat, The ordeal by, 92-93
- Commerce makes for peace, 172
- Community, Motives for the actions of the, must be studied, 23; must settle what is for its own benefit, 41; in the matter of suffrage, 57, 58
- Compromise often a wise policy in legislation, 97-98; on methods but not on principle, 98-99
- Concert of Powers, The, 173-74
- Conditions, Actual, must be depicted, 2
- Consciousness of kind and its effects, 31
- Constituents, The representative and his, 76-79
- Constitution, Courts will not permit legislature to change a, 135-37; what we mean by a, 145; the English, and that of U.S. practically the same in content, 145; Prof. J. Macy's definition of a, 146; Prof. J. W. Burgess on the three fundamental parts of a, 146-49; organization for changes in, 146-47; constitution of liberty, 147-48; constitution of government, 148-49; may be written, or unwritten as in Great Britain, 150-51; measures and matters to be avoided in a, 158; only essential, fundamental things should be put in a, 159
- Constitution, The English, 150-51; amended by statute or custom, 151
- Constitution, the federal, Interpretation of, 131, 132; length of, 144; contains only absolutely fundamental laws, 145, 149-50; to be studied, criticised, and discussed, 150; preamble to, 152;

- amendments to, 154; political parties a part of, 155
- Constitution-making bodies, and their enacting clauses, 151-54
- Constitutional amendments, 45, 47, 154
- Constitutionality of pending bills, Courts refuse to pass on, 141
- Constitutions, 144-59; comparative length of, 144; changed in character, 145; written and unwritten, 145; written, adopted, and promulgated by some body different from the legislature, 151; of U.S., Oklahoma, and Japan compared, 152-53; amendments to, 154; informal parts of, 154-55; provisions not fundamental found in written, 156-57; matters requiring frequent change should not be put in, 158; students of, should study the whole civic structure, 159
- Corea wanted by both Russia and Japan, 162-63
- Corporations, Our great, have influenced our laws and politics, 19; the heads of, desire extension of power, 30
- Corruption of voters never justified, 63; the referendum checks, 107
- Country safe whichever party wins election, 65
- Courts, Special administrative, in Europe, 140-41
- Courts declare the law, 129; reflect change in public opinion, 137; everyday powers of the, 139; the people and the, 143
- Courts of conciliation in Norway, 139-40; in a modified form in North Dakota, 140
- Cranks and extremists as representatives, 88
- Criminals only sorry they have been caught, 26
- Cromer, Lord, in Egypt, 167-68
- Cuba, The question of suffrage laws for, 40; the problem of, 166-67
- Custom has the force of law, 92-93; law passed to change a, 94; the prescription of, should be recognized in law, 156
- Czar of Russia, The, acts within very definite bounds, 25
- Debs, Mr., to head a socialistic experiment in state of Washington, 21
- Decentralization, with central inspection, 126-27
- Delegate or representative? 76-80, 90
- Democracy, A, 42
- Democratic government, 12
- Democratic majority, The, in 53d Congress, 81
- Despotism, A, may be really a free state, 44
- Despotisms, The great, of history, found in the great plains, 19
- Difference between peoples implies neither superiority nor inferiority, 31-33
- Diplomatic methods, Influence of United States on, 169-70
- Disraeli, Personality of, 114
- Dred Scott decision, The, and the War of the Rebellion, 131-32
- Dutch, The, examining our work in the Philippines, 168-69
- Economic competition of nations, The, makes for peace, 172
- Economic society complicated yet perfect, 8-9
- Educational qualification must be simple, 49
- Egypt, Lord Cromer in, 167-68
- Election, Fundamental intention in any, 12
- Elections, Local and general, 49
- Emerson on independence in voters, 51
- England as largely a republic as the United States, 25; the present ruler of, 29; wage-earners formerly excluded from the ballot in, 52; two chief parties in, 71
- English, The, examining our work in the Philippines, 168-69
- Ethics and politics, Relations between, 21

- Examinations, Competitive, 122-23
- Executive, The chief, has a direct influence on public opinion, 110-11; stands alone, representing the state, 111; social influence of, 111-12; represents the majesty of the law, 113; war powers of, 113; gets revenues through the legislature, 113-14; relations of, to legislature, 114; responsibility of, regarding legislation, 114-15; to enforce the law, 115-16; sins of legislature against, 117; power of, in interpreting laws, 117-18; personal predilections of, 119; should know what his subordinates are doing, 125-26
- Executive, or other, discretionary powers, under a general law, 103
- Executive department, Centralization in the, 126
- Expansion, a natural ambition, 161; geographical necessity for, 162-64; question of right and wrong in, 164-65; a matter of strength, 164; and the Monroe Doctrine, 165; so-called diplomacy in, 169-70
- Experience, Education by, 116
- Experiment, The method of, only remotely available, 21
- Experts, The opinion of, 102
- Facts of social and political life, Principles must be drawn from the, 2; our observation of the, must not be warped by beliefs or prejudices, 22
- Fairchild, C. S., Secretary of the Treasury, 118
- Falsehood employed in diplomatic methods and in war, 169-71
- Federal legislation, when desirable, 102
- Federation, The results of, 173; a world, 175
- Filipinos, The, and self-government, 167-68
- France, Proportional representation in, 84; with growth of, war in, ceased, 173
- Franklin on stopping personal vices, 99
- Free trade, 98
- French and Indian War, 161-62, 163
- Gambetti inspired personal devotion, 37
- Gambling, Question of licensing, 98
- Geographic conditions, Need of study of, 20
- Germany dominated by military necessities, 15; interest of present ruler in welfare of, 29; age qualification of voters in, 47; woman suffrage in, 54; class representation in, 82; federation in, made for peace, 173
- Gerrymander, The, and its results, 80-81; McKinley defeated for reelection by a, 85-86
- Giddings, Prof., on consciousness of kind, 31
- Gladstone a magnetic leader, 37; 114
- Governing, the chief work of the state, 9
- Government, Nature of the state and of, 1-22; the great committee of the state to formulate and carry out its will, 11; represents the state as a whole, but members of state must do its bidding, 12; personality of the men who compose the, 13; relation of the, to each individual citizen, 13; factors that shape the nature of the, 18-19; we must see the real forms of, 25; difference between a free and a popular, 43-44; protects wage-earners, 52; separation of powers of departments of, 127; form of organization of, and ways of performing functions of, 149, 159
- Governments, The chief classification of, based on suffrage, 42
- Great Britain, Property qualification required of electors in, 42-43; the Local Government Board in, 126; in Egypt, 167; and her dependencies, 169; with growth of, war in, ceased, 173
- Greater Britain, A, 173
- Greece, ancient, Work of voters in, 45; and Rome in civilization, 165

- Greece, modern, Parties take name of political leaders in, 46
- Greek Church, The, the influence by which the common people of Russia are controlled, 19
- Habit, Influence of, 34-36; determines party membership, 68; creatures of, 112
- Hague Conferences, The, 174, 175
- Hague Tribunal, The, 174
- Hamerton, P. G., on the qualities of women, 110
- Hero worship, 46
- Hindoos and Americans, Difference between, 31-32
- Holy Alliance, The, 173
- Home rule, 126
- House of Commons, The will of the, determines the act of government, 43; a labor member of the, and the aristocracy, 112; has the executive in absolute subordination, 113-14
- Human nature and the factors that influence it, 18; consciousness of kind, 31; recognition of differences, 32; inertia or human laziness, 33
- Ideal, Some, of the state, necessary, 2-4; of the American citizen, 4-5
- Ignorance responsible for venal vote, 51; will adding ignorance to, produce wisdom, 78, 105-6
- Illinois, The referendum in the Constitution of state of, 156
- Independence in voters, 51-52
- Independent personality of women, 54-55
- Independent thinking soul, The, a precious thing, 51
- Indiana, The gerrymander of 1892 in, 81
- Indians, Taking land from the, 161, 164
- Individual, Each, must work at some practical problem, 5; many motives determine the acts of the, 30-31; has no right to demand anything from the community, 41; activity of the, in a popular government, 44; the state supreme over the, 44
- Individual characteristics, Power of, 13
- Individual initiative should be safeguarded, 104
- Individualists, The, 14
- Inertia, Mental, or human laziness, 33-34; tends to conservatism, 35; must be kept in mind, 41
- Ingraham, Capt., and Martin Koszta, 10-11
- Initiative, The, in Switzerland, 104-5
- Ins, The, and the outs, 70-71
- Interests, The, of all should be sought, 39
- International Congress, A general, to meet regularly, needed, 175
- International relations, 160-75; influence of the U.S. upon, 160; lying practised in, 169-71; a general congress on rules in, needed, 175
- Interpretation of law by the courts, 129; significance of power of, 131-32
- Interstate Commerce Law, The, and the framers of the Constitution, 133
- Intervention for the sake of humanity, 174
- Introspection, A habit of, should be developed, 20
- Isolation, Advantages of our, 160
- Issues, Local, have nothing to do with national politics, 73
- Issues, Special, originate third parties, 72
- Italy, With growth of, war in, ceased, 173
- Jackson, Andrew, Influence of personality of, on the state, 13, 114; a magnetic leader, 37
- Japan, Preamble to Constitution of, 152-53; no fear of war with, 172
- Japanese and Americans, Difference between, 31-32
- Jefferson, Voters swayed by name of, 70; and the Louisiana purchase, 163
- Johnson, Andrew, and Congress, 114
- Jordan, President, and the six idlers on the fence, 41-42
- Judge-made law, 129; behind the times, 135

- Judges, Our, lawyers, unfamiliar with business and social conditions, 134-35; conserve the rights of the people, 143.
- Judgment, The, of others, taken without testing, 42
- Judiciary, The, 129-43; impartiality of, must be secured, 141; term of office of, and character of, 142-43
- Kind, Consciousness of, and its effects, 31
- Kings, Divine right of, 111
- Kipling's "East and West," 32-33
- Koszta, Martin, protected as an American citizen, 10-11
- Krupp Iron Works elect one-third of the representatives in Essen, 82
- Labor, Demand for, unanswered, 42; representatives of, in Congress and state legislatures, 83
- Law, Disrespect for, an evil thing, 95; no enforcement of, without public sentiment, 102, 115; the best form of, 106; courts declare the, 129
- Laws become obsolete, 115-16; interpretation of, by executives, 117-18; ambiguous, 130, 132; conditions change under old, 133; the fundamental, really constitutional, change but little, 159
- Laws relating to social institutions simply the formulation of customs, 93, 94
- Lawyers, Large representation of, in most legislatures, 83
- Legislation, 92-109; radical changes in, avoided, 95, 96; chief aim of, restrictive, 99; national, state or local, 102; direct, 104-5, 106; fundamental principles of, 109; the executive and popular, 115
- Legislative detail, 102-3
- Legislative matters, Voters not competent to decide on all, 49; decentralization in, 126
- Legislative method injurious and contemptible, 117
- Legislators should take to heart the interests of the people, 83; follow public opinion, 95, 96, 103, 106; compromise by, often a wise policy, 97
- Legislature, The, and the executive, 113-14
- Liberties of the individual should be defined in the constitution, 147-48; implicit in the customs of the people, 148; the nature of, fundamental, 159
- Liberty, A mountainous country the cradle of, 18
- Lincoln above all parties, 70; autocratic power of, in the Civil War, 113
- Local option laws, 102
- Louisiana purchase, The, 163
- Lowell, James Russell, on the standard of real value of a country, 3-4
- Luxury or comfort, Complicated economics of securing any article of, 8-9
- Lying practised in war and in diplomacy, 169-71
- McKinley, William, defeated for reelection by a gerrymander, 85-86
- McKinley Tariff Law, The, 81
- Macy, Prof. Jesse, on a constitution, 146
- Magna Charta, 150, 151
- Majority, There may be a tyranny of the, 44
- Majority party, There would be no, under proportional representation, 89
- Man, The average, drifts into politics, business, and religion, 34
- Marshall, Chief Justice, established doctrine of implied powers, 131
- Measure, The, of a nation's true success, 4
- Mexico, Monroe Doctrine enforced in, 166
- Minority, The, submits to will of the majority, 12
- Misunderstandings, Lawsuits and quarrels spring from, 132, 139
- Monroe, Personality of, 13; and Congress, 114

- Monroe Doctrine, Statement of the, 165-66
- Motives, The political, 23-39; a complete study of, impracticable, 24; of real rulers, 25; position and power, 28-30
- Mugwumps, 68-69
- Mustaches, Fashion in, set by Napoleon III and the German Emperor, 111-12
- National banks, Deposit of public funds in, 118
- Natural right, There is no such thing as a, 40-41, 44
- Negro suffrage, 57, 58-60; qualifications for, 58-59; a practical matter, 59-60
- New York City at times governed by an oligarchy, 25; action of members of Assembly voting for Greater, 77; a question whether class representation would not be better in, 82-83; outvoted in Legislature by country members, 83; chief executive of (1908), 110
- New York state at times under sway of a boss, 25; large group of independent voters in, 69-70; might have several small parties, 87-88; chief executive of (1908), 110; forest provision in Constitution of, 156-57
- Nicholas II and Peter the Great, 13
- Nominations, Direct, 46
- North Dakota, Court of conciliation in, 140
- North Sea trouble, The, 174
- Norway, Country districts in, out-rank the city in representation, 82; courts of conciliation in, 139-40
- Office, When seeking, is justified, 29; change in, 74
- Office-holders should be able and tried, 74
- Offices, Clerical, should not be filled by party men, 74
- Offices, Some, in their nature political, 73-74
- Officials, Government, and the ballot, 52-53
- Oklahoma, Length of constitution of, 144; preamble to, 152; text-book provision in, 157
- Ordeals, The custom of, 92
- Orient, Institutions of Anglo-Saxon race not adapted to people of the, 19
- Over-legislation, 89-90; danger of, 103-4
- Parties, Third, and their desirability, 71-72; originate in special issues, 72; true function of, 73
- Parties, Two chief, in U.S. and England, 71; should not small, have proportional representation? 84-85, 86-87
- Party, Devotion to, 38
- Party, One small, might hold balance of power, 89; may make propaganda at public expense, 108
- Party leaders should use only honest and honorable methods, 63; only unselfish patriots should be, 66; as such, have no claim to office, 74
- Party machines, 62; organization and work of, 64-65
- Party membership, how determined, 66; by environment, habits, and business, 67
- Party organization, Abuse of, 81
- Party politics and party thinking, 35
- Party's policy, Helping shape, within better than hostile criticism from outside, 69; changed, 70
- Patriotism a justification for seeking office, 29-30; as a political influence, 38; voters should have, 50
- Paupers may properly be disfranchised, 51
- Peace, Forces tending toward perpetual, 171-75; cost of armies, 171-72; commerce, 172; Roman Catholic church, 172-73; growth of great states, 173; federation and alliances, 173-74; arbitration, 174; the Hague Conferences, 174-75
- Peasant, The, calls upon the state, 6

- People, Mass of the, unenlightened in the principles of politics, 2; views of the, regarding the state, very indefinite, 7; the will of the, not to be feared, 15; should the ignorant, be allowed to suffer? 17; many hereditary rulers devoted to the good of their, 28-29; the common, and the race question, 31-32; influenced by patriotism, 38; unwillingness of, to think and work, 41; hero worship among the, 46; cling to a party name, 70; legislating for themselves, 105; that all the, are wiser than part, an unsound principle, 105-6; soon tire of discussion of a complicated question, 107; cannot vote intelligently on complicated questions, 107-8; attitude of, toward chief executive, 113; learn from their own mistakes, 116; a constitution must protect the liberties of the, 147-48
- "People of the United States," Ambiguity of the phrase, 153-54
- Peoples, Difference between, 31-33
- Pericles on the ideal of the Athenians, 3
- Personal interests in politics, 23
- Personal prestige of chief ruler, 113
- Personality, Power of, 13, 56, 114; not determined by civil service examinations, 123
- Peter the Great, 13
- Philippines, Our experiment in the, 167; its international bearing, 167; Dutch and English examining, 168
- Policy of the state, Factors that determine the, 18-20
- Political action, Complete analysis of motives determining, impracticable, 24; we view, from our own interests, 39; predicted geographically, 51
- Political ideas, how originated, 88-89
- Political influence, Every person has some, 23; of the chief executive, 110-11
- Political parties, 61-75; Woodrow Wilson on, 61; how made up, 61-62; a necessity, 62; party machines and securing the offices, 62-63, 65; honest and honorable management of, 63; may remain too long in power, 65-66; should not exist except for good of the state, 66; change their policy, 70; the ins and the outs, 70-71; devotion to, should be only for sake of country, 75; informally a part of our Constitution, 155
- Political reasoning, Nature of the premises needed in, 17-19; methods of study, 20-21
- Political tricks to secure party success, 26
- Politicians, Most, act conscientiously, 26
- Politics, the study that deals with the state and with government, 6; differences in, and civilization, 32; principles of, in international matters, 160
- Post-office, The, everywhere a government monopoly, 16
- Post-Office Department, The, like a great express company, 120
- Powers, implied, Doctrine of the, 131
- Powers of branches of government, Separation of, 127
- Prejudice a motive force in the state, 33
- President, The, and popular legislation, 115; the Cabinet of the, 120-22; must rely on subordinates in making appointments, 124-26; change of custom in election of, has amended the Constitution, 155
- Prime Minister practically nominated and elected by House of Commons, 113; personality of the, 114
- Prince Albert coats, 111
- Principles, The, controlling political motives apply also in business, 30
- Private enterprise and public management, 127-28
- Privileges, Special, 104
- Prohibition, Laws for, effective or otherwise according to local public opinion, 95-96; that cannot be enforced, unwise, 102
- Prussia, Class representation in, 82

- Public imagination, Chief executive tries to capture the, 110-11, 115
- Public opinion, Influence of chief executive on, 110
- Public sentiment and woman suffrage, 57-58; and the law, 95-96, 102, 106
- Qualifications of voters, 47-53; educational, 48-50
- Questions at issue not clearly understood, 37
- Race conflicts, 31-33
- Races, Representation of different, in advisory positions, 121
- Railroads in Germany a military necessity, 15
- Referendum, The, in Switzerland, 104-5; checks corruption, 107; abuse of, 108; a general, not wise for most countries, 108; in Constitution of state of Illinois, 156
- Reform movements of history started by extremists, 88
- Reformer, President Roosevelt on the unpractical radical, 1
- Reformers, Mistaken assumption of, 2
- Registration laws, 48
- Reichstag, the German, No educational or property qualification required of electors of members of, 42; has little influence in governmental affairs, 43
- Religion, We follow our fathers in, 34
- Representation, 76-91; are representatives merely delegates? 76-77; Edmund Burke on, 77-78; in other than political matters, 79-80; the delegate idea of, favors the demagogue, 80; result of, in 53d Congress, 81; abuse of, 81; of certain classes, 81-84; proportional, 84-87; advantages, 85-86; objections, 87-89; class, encouraged by proportional, 90; no one system of, adapted to all countries, 90-91; best method for complicated questions, 108; geographic, in the Cabinet, 121
- Representatives and their constituents, 76-80; stand for the people of the entire country, 78; ought not to be errand boys, 79-80; a majority of, in the 51st Congress elected by a minority of the voters, 81; ought they to be chosen from special classes? 84
- Republican congressmen in 1894, 81
- Republican party, Policy of, changed several times, 70; sprang from a third party, 72
- Road, Custom of the, 93-94
- Roman Catholic church exerts a powerful influence towards peace, 172-73
- Roosevelt, President, on unpractical radical reformers, 1; personality of, 114
- Rulers, Motives of the real, 24; controlled by popular sentiment, 25; moral code of, 27; position and power most important motives of, 28-30
- Rural vote, The, cannot be calculated accurately, 18
- Russia, The common people of, controlled through the Greek Church, 19; power of the church in, constitutional, 155; with growth of, war in, ceased, 173
- Russia, Germany, and Great Britain, monarchies, but their governments have little likeness, 25
- Russo-Japanese war, The, 13; inevitable, 162-63; intervention in the, 174
- Schools and colleges, Our, have a great effect in determining our politics, 19
- Self-interest a strong political motive, 36-37
- Shaw, Leslie M., Secretary of the Treasury, 118
- Sherman Anti-Trust Act, The, 116, 129-30
- Slavery, The problem of, and the Civil War, 162
- Slaves ought not to vote, 52
- Social influence of the chief executive, 111-12; of the aristocracy, 113

- Social institutions have their influence upon political conditions, 19
- Socialistic experiment, A, proposed in state of Washington, 21
- Socialists, Belief of the, 14
- Societies, Common characteristics of different classes of, 7; we join, but are born into the state, 10
- Society, The fundamental influence that tends to create, 31
- South Africa, Federation in, 173
- South Carolina, Length of constitution of, 144
- Southern states, Sentiment in, after close of the Civil War, 59
- Spain, International troubles arising from war with, 166
- State, Nature of the, and of government, 1-22; a tentative ideal of the, must be set up, 2-3; exists for the benefit of all classes, 4; characteristics of the, 6-12; a social organization, 7; is supreme, gives and enforces laws, 9-10; governing the chief work of the, 9; grants aid and protection, 10-11; acts through its agents, the government, 11-12; activities of the, how determined, 14-17; likely to make mistakes, 17; factors that shape the nature of the, 18-20; the best, in the view of the poor and of the idle rich, 38; a free, and one with a popular government to be distinguished between, 43-44; social and practical conceptions of the people of the, 147
- States, The growth of great, a tendency for peace, 173; concerted action among leading, may determine peace, 174
- Statesman, Duty of the, 22; misleads one of his neighbors for the good of the state, 27
- Straits Settlements, Different races represented in Governor's Council of the, 121
- Study, Comparative, of other states and governments necessary, 20
- Study, Methods of, in handling the premises of politics, 20-21
- Subordinates and superiors, 118-20; should be carefully selected, 124; responsibilities of, 124-26
- Success, Measure of a nation's true, 4
- Suffrage, The, 40-60; the chief classification of governments based on, 42; tendency to extend the right of, and to give voters more influence, 43; should not be the same in all countries, 55-56; not a right, 57; question of, must be settled for the good of each community, 57-58; for the negro or other race, 58-60; general principles of, to be applied conservatively, 60
- Supreme Court, U. S., and the Sherman Anti-Trust Act, 129-30; and aerial navigation, 133; not familiar with business conditions, 135; charges of "packing" the, 137; decision of, on the income tax, 138
- Switzerland easily defended, 18; work of voters in, 45, 47; proportional representation in, 84, 85, 87; initiative and referendum in, 105-6, 107, 108; legislature the final interpreter of law in, 138
- Taboo, Custom of, in islands of Oceania, 92
- Tariff, The, affects party membership, 67; compromise on, 98
- Tasmania, Proportional representation in, 87
- Taxes, Light or heavy, at the will of the people, 14-15
- Temperament of individuals noteworthy, 66
- Territory, Question of right and wrong in the acquirement of, 164-65
- Texas, The acquisition of, a necessity, 163
- Theft, Law against, in a community of thieves, 103
- Thinking understandingly too much trouble for most of us, 42
- Trade, Restraint of, under Sherman Anti-Trust Act, 129-30
- Treasury, Secretary of, and the deposit of public funds, 118

- Treasury, The U.S., the greatest book-keeping and disbursing establishment in the world, 120
- Turkey, The Sultan of, has limits set to his despotism, 25
- "Unconstitutional," Difference in meaning of, in Great Britain and United States, 145
- United States, Chief executive of (1908), 110; federation in the, 173, 175
- University faculty, Parties in a, 66-67
- University president, The, desires to extend his power, 30
- Utah, Woman suffrage in, 57
- Van Buren and Congress, 114
- Vendetta, The custom of the, 92
- Venezuela controversy, Cleveland enforces Monroe Doctrine in the, 166
- Vices, personal, Franklin on stopping, 99; legislation on, 99-100
- Vote, A Democratic, equal to 5.4 Republican votes, 81
- Vote buying, How to stop, 37
- Voters, Nine-tenths of, stay put in politics, 33-34; should do their own thinking, 35; influenced by devotion to party leader, 37; influence exerted by, 43; character of work done by, 44-45; voting upon laws the main duty of, in some countries, 45; the most important work of, 45, 47, 48; choose between rival candidates, 46; propose laws in Switzerland, 47; age qualification of, 47; residence, 48; educational qualification, 48-50; knowledge of good government, 50; patriotism and good judgment, 50-51; independence in, 51-52; corruption of, worse than party defeat, 63; influencing doubtful, 64-65; consider their individual interests, 68; should influential and conscientious, withdraw from their party, 69, 70; should not be bound by party name, 70; the body of, the political society of the state, 147
- Voting, The right of, a sacred trust, 44; basis for restrictions on, 44; not a right, 57
- Wage-earners and the ballot, 52
- Washington, George, Efforts of, to promote peace, 160
- Wealth, Concentration of, in the hands of a few, has influenced our law and politics, 19
- Wesley, John, and the drunkard, 20
- Western continent not open to European powers, 165-66
- Woman suffrage, 53-58; argument of anti-suffragists, 54; independent personality of women, 55; sometimes a success, 56; in the eastern and western states, 57; the question must be settled for the good of each community, 57-58; public sentiment and, 57-58
- Women, Our, fully the equal of the men, 53-54; have the right to vote in some countries and states, 54; large proportion of, have independent personality, 55; and men think much alike on public questions, 56-57

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